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Section by Section Analysis
of the Amendments to the Manual
for Courts-Martial Concerning
Controlled Substances Offenses

*Working Group of the Joint-Service Committee
on Military Justice*

On 23 September 1982, the President signed Executive Order Number 12383, effective 1 October 1982, amending the Manual for Courts-Martial, 1969 (Rev. ed.), with respect to pleadings and punishments for drug offenses. The provisions of this Executive Order were drafted by the Working Group of the Joint-Service Committee on Military Justice. Below is an analysis of the changes prepared by the Working Group:

Section 1 amends paragraph 127c, Section A of the MCM, 1969 (Rev.). This amendment of the Table of Maximum Punishments provides a completely revised system of punishments for contraband drug offenses under Article 134. The punishments under 21 U.S.C. §§ 841 and 844 were used as a benchmark for punishments in this paragraph. Thus, the maximum penalty for distribution or possession with intent to distribute certain Schedule I substances under 21 U.S.C. § 841—15 years imprisonment—is the same as the highest maximum punishment under paragraph 127c (except when the escalator clause is triggered, see analysis of section 2 *infra*.)

Within the range under the 15 year maximum, the penalties under paragraph 127c are generally

somewhat more severe than those under 21 U.S.C. §§ 841 and 844. This is because in the military any drug offense is serious because of the high potential for adversely affecting readiness and mission performance. See generally *Schlesinger v. Councilman*, 420 U.S. 738, 760 n.34 (1975); *United States v. Trotter*, 9 M.J. 337 (C.M.A. 1980). The availability of contraband drugs, especially in some overseas locations, the ambivalence toward and even acceptance of drug usage in some segments of society, especially among young people, and the insidious nature of drug offenses all require that deterrence play a substantial part in the effort to prevent drug abuse by servicemembers.

The following sentence enhancement provisions in the United States Code were not adopted: (1) the recidivism provisions in 21 U.S.C. §§ 841(b), 844(a), and 845(b), which either double or triple the otherwise prescribed maximum penalty; and (2) the provision in 21 U.S.C. § 845(a) which doubles the maximum penalty for distribution of a controlled substance to a person under the age of 21. (The latter provision would probably apply to a high percentage of distribution offenses in the armed forces, given the high proportion of persons in this age group in the armed forces.) These special provisions were not adopted in favor of a simpler, more uniform punishment system. The overall result is an absence of the higher punishment extremes of the federal system, while some of the offenses treated more leniently in the lower end of

the scale in the federal system are subject to potentially higher punishments in the military, for the reasons stated in the preceding paragraph. There are no mandatory minimum sentences for any drug offenses. See Article 56.

The expungement procedure in 21 U.S.C. § 844(b) and (c) is unnecessary and inappropriate for military practice. Alternatives to prosecution for drug offenses already exist. See, e.g. Article 15. The use of such alternatives is properly a command prerogative.

Section 2 amends paragraph 127c, Section B by adding an escalator clause to provide for certain special situations, unique to the military, in which drug involvement presents an even greater danger than normal. See 37 U.S.C. § 310 concerning hostile fire pay zones.

Section 3 amends paragraph 213, dealing with certain offenses under Article 134. Paragraph 213g replaces the discussion of offenses involving some contraband drugs which was found in the last paragraph of paragraph 213b of MCM, 1969 (Rev.). It was considered necessary to treat drug offenses more extensively in the Manual for Courts-Martial because of the significant incidence of drug offenses in the military and because of the serious effect such offenses have in the military environment. It was also necessary to provide a comprehensive treatment of drugs, with a complete set of maximum punishments, in order to eliminate the confusion, disruption, and disparate

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The Army Lawyer welcomes articles on topics of interest to military lawyers. Articles should be typed doubled spaced and submitted to: Editor, *The Army Lawyer*, The Judge Advocate General's School, Charlottesville, Virginia, 22901. Footnotes, if included, should be typed on a separate sheet. Articles should follow *A Uniform System of Citation* (13th ed. 1981). Manuscripts will be returned only upon specific request. No compensation can be paid for articles.

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treatment of some drug offenses among the services in the wake of *United States v. Courtney*, 1 M.J. 438 (C.M.A. 1976); *United States v. Jackson*, 3 M.J. 101 (C.M.A. 1977); *United States v. Hoising*, 5 M.J. 355 (C.M.A. 1978); *United States v. Guilbault*, 6 M.J. 20 (C.M.A. 1978); *United States v. Thurman*, 7 M.J. 26 (C.M.A. 1979).

(1) *Controlled substance*. The list of drugs specifically punishable under Article 134 has been expanded to cover the substances which are, according to studies, most prevalent in the military community. See, e.g., M. Burt, et al, *Highlights from the Worldwide Survey of Nonmedical Drug Use and Alcohol Use Among Military Personnel: 1980*. In addition, the controlled substances which are listed in Schedules I through V of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (codified at 21 U.S.C. § 801 et seq.) as amended are incorporated. The most commonly abused drugs are listed separately so that it will be unnecessary to refer to the controlled substances list, as modified by the Attorney General in the Code of Federal Regulations, in most cases. Most commanders and some legal offices do not have ready access to such authorities.

(2) *Possess*. The definition of possession is based *United States v. Aloyian*, 16 U.S.C.M.A. 333, 36 C.M.R. 489 (1966) and paragraph 4-144, Military Judges' Benchbook, DA PAM 27-9 (May 1982). See also *United States v. Wilson*, 7 M.J. 290 (C.M.A. 1979) and cases cited therein concerning the concept of constructive possession. With respect to the inferences described in this subparagraph and subparagraph (5) *Wrongfulness*, see *United States v. Alvarez*, 10 U.S.C.M.A. 24, 27 C.M.R. 98 (1958); *United States v. Nabors*, 10 U.S.C.M.A. 27, 27 C.M.R. 101 (1958). It is important to bear in mind the distinction between inferences and presumptions. See *United States v. Mahan*, 1 M.J. 303 (C.M.A. 1976). See also *United States v. Baylor*, 16 U.S.C.M.A. 502, 37 C.M.R. 122 (1967).

(3) *Distribute*. This subparagraph is based on 21 U.S.C. § 802(8) and (11). See also E. Devitt and C. Blackmar, 2 *Federal Jury Practice and Instructions*, § 58.03 (3d ed. 1977).

"Distribution" replaces "sale" and "transfer." This conforms with federal practice, see 21 U.S.C.

§ 841(a), and will simplify military practice by reducing pleading, proof, and associated multiplicity problems in drug offenses. See, e.g. *United States v. Long*, 7 M.J. 342 (C.M.A. 1979); *United States v. Maginley*, 13 U.S.C.M.A. 445, 32 C.M.R. 445 (1963). Evidence of sale is not necessary to prove the offense of distributing a controlled substance. See *United States v. Snow*, 537 F.2d 1166 (4th Cir. 1976); *United States v. Johnson*, 481 F.2d 645 (5th Cir. 1973). Thus, the defense of "agency," see *United States v. Fruscella*, 21 U.S.C.M.A. 26, 44 C.M.R. 80 (1921), no longer applies in the military. Cf. *United States v. Snow*, supra; *United States v. Pruitt*, 487 F.2d 1241 (6th Cir. 1974); *United States v. Johnson*, supra ("procuring agent" defense abolished under 21 U.S.C. § 801 et seq.). Evidence of sale is admissible, of course, on the merits as "part and parcel" of the criminal transaction (see *United States v. Stokes*, 12 M.J. 229 (C.M.A. 1982); cf. *United States v. Johnson*, supra; see also Mil.R.Evid. 404(b)), or in aggravation (see paragraph 75b(4) of MCM, 1969 (Rev.); see also *United States v. Vickers*, 13 M.J. 403 (C.M.A. 1982)).

(4) *Manufacture*. This definition is taken from 21 U.S.C. § 802(14). The exception in 21 U.S.C. § 802(14) is covered in subparagraph (5).

(5) *Wrongfulness*. This subparagraph is based on the last paragraph of paragraph 213b of MCM, 1969 (Rev.). Cf. 21 U.S.C. § 822(c). See also *United States v. West*, 15 U.S.C.M.A. 3, 34 C.M.R. 449 (1964); paragraphs 4-144 and 145, Military Judges' Benchbook, DA PAM, 27-9 (May 1982). It is not intended to perpetuate the holding in *United States v. Rowe*, 11 M.J. 11 (C.M.A. 1981).

(6) *Intent to distribute*. This subparagraph parallels federal law which allows for increased punishment for drug offenses with an intent to distribute. 21 U.S.C. § 841(a)(1). The discussion of circumstances from which an inference of intent to distribute may be inferred is based on numerous federal cases. See, e.g., *United States v. Grayson*, 625 F.2d 66 (5th Cir. 1980); *United States v. Hill*, 589 F.2d 1344 (7th Cir.), cert. denied, 442 U.S. 919 (1979); *United States v. Ramirez-Rodriguez*, 552 F.2d 883 (9th Cir. 1977); *United States v. Blake*, 484 F.2d 50 (7th Cir.), cert. denied, 417 U.S. 949 (1973). Cf. *United States v. Mather*, 465

F.2d 1035 (5th Cir.), *cert. denied*, 409 U.S. 1085 (1972). Possession of a large amount of drugs may permit an inference but does not create a presumption of intent to distribute. *See Turner v. United States*, 396 U.S. 398 (1970); *United States v. Mahan*, 1 M.J. 303 (C.M.A. 1976).

(7) *Certain amount*. This subparagraph is based on *United States v. Alvarez*, 10 U.S.C.M.A. 24, 27 C.M.R. 98 (1958); *United States v. Brown*, 45 C.M.R. 416 (A.C.M.R. 1972); *United States v. Burns*, 37 C.M.R. 942 (A.F.B.R. 1967); *United States v. Owens*, 36 C.M.R. 909 (A.B.R. 1966).

Section 4 amends Appendix 6c. The new sample specifications are based on sample specifications 144 through 146 found in appendix 6c of the MCM, 1969 (Rev.), as modified to reflect the new comprehensive drug offense provision.

Section 5 provides an effective date for the new amendments.

Section 6 requires the Secretary of Defense to transmit these amendments to Congress.

In Defense of Lawyers, Or, The First Thing We Do, Let's Kill All Who Quote Shakespeare Out of Context

*Major Charles W. Hemmingway
31st Graduate Class, TJAGSA*

The title paraphrases a time-worn line from Shakespeare which is quoted whenever anyone wants to take a shot at lawyers:

"The first thing we do, let's kill all the lawyers."¹

It is high time that we lawyers set the record straight and explain what really happened to those poor Shakespearian souls who had the audacity to utter such blasphemous words. Hence, the purpose of this article is to examine the actual context within which that line was spoken.

The offending phrase is buried in the fourth act of Henry VI, Part II, a work which is one of ten Shakespearian plays commonly referred to as *The Histories*.² Set in England in 1445-1455,³ the play concerns Henry VI's efforts to retain his monarchy. Henry was faced with mounting displeasure over his rule among the English populace. He had troubles with the Duke of York, scion of a competing royal house, who had designs on the throne⁴

and with the nobles who are sympathetic to the Duke of York. On top of all that he was confronted with an Irish uprising, an internal peasant revolt, and the murders of his uncle, the Duke of Gloucester, and his ablest advisor, the Duke of Suffolk. As if those weren't problems enough, even his wife, the queen, didn't respect him.⁵

The play opens with the Duke of Suffolk delivering Margaret of Anjou, daughter of the French king, to Henry VI. As part of a peace arrangement with France, Henry agrees to take Margaret as his queen, and in return, give up the French provinces of Anjou and Maine which the English had captured.⁶ The King's agreement to give up such hard-won territory in return for Margaret's hand, an arrangement negotiated by Suffolk, caused much consternation among the English nobles and populace. Intertwined in the plot is the murder of the Duke of Gloucester, popular among the peasantry, whose death causes additional unrest. The Duke of York, with designs on unseating the King, desires to capitalize on such unrest, but is sent out of the country to quell the Irish uprising.⁷ York makes

¹W. Shakespeare, Henry VI Pt. II Act IV, scene ii, 67 (New Temple Shakespeare ed. 1936).

²The plays are Henry IV Pts. I, II, III; King Richard II; King Richard III; King John; King Henry II Pts. I, II; King Henry V; King Henry VIII.

³Shakespeare, *supra* note 1, at xi (Foreword).

⁴*Id.* at scene ii, 27.

⁵*Id.* at Act I, scene iii, 13.

⁶*Id.* at scene i, 2.

⁷*Id.* at Act III, scene i, 45.

known before departing to Ireland that he has arranged with the English rebel John Cade to keep things stirred up against the King while York is gone.⁸

But the plot includes another twist. For Cade, a commoner, announces that he has a claim to the English throne in his own right as a purported grandson of Edmund Mortimer, Earl of March.⁹ Mortimer was the family name of the descendants of Phillippe, daughter of Lionel, Duke of Clarence, third son of King Edward III.¹⁰ Shakespeare's inclusion in the plot of such a peasant uprising is based on historical fact, an incident in 1450 known as Cade's Rebellion in which approximately 30,000 peasants sympathetic to the Duke of York marched on London seeking land reform.¹¹

Shakespeare's infamous line about lawyers is made by one of Cade's minions as the rebels are about to march on London to overthrow the King. The context within which Shakespeare has one of his minor characters utter that line is especially revealing. Shakespeare, with his use of puns, clever dialogue, and comic asides makes out this motley crew of rebels to be no more than fools and buffoons. As certain commentators have noted, "In the world of Cade and his followers, ordinary values are completely inverted, manifest impossibility replaces fact and right reason becomes a series of puns, defective syllogisms, and contradictions in terms."¹² For example, as Cade stands addressing his followers just prior to the march on London, one of his men, Dick the Butcher, constantly ridicules Cade's remarks. Cade tells the throng that he is named John Cade because of his supposed father, but Dick remarks that it was instead because of his stealing a cade (small barrel) of herring.¹³ Cade proclaims that his father was a Mortimer; Dick, in an aside, agrees that indeed Cade's father was a good bricklayer, an obvious

play on the word "mortar".¹⁴ Cade states that his wife is descended of the Lacies (the surname of the Earls of Lincoln) and Dick remarks that she was indeed a peddler's daughter and sold many laces.¹⁵ Cade concludes that he is therefore descended of an honorable house, to which Dick responds that Cade's father never had a house, only a cage (a small portable prison used for displaying minor criminals).¹⁶ Cade remarks that he is able to endure much and Dick adds that there is no question of that for he has seen Cade whipped in public three market days in succession.¹⁷

Cade then begins to tell the crowd what will happen when he becomes king. He states that it will be a felony to drink weak beer and that all citizens will get four quarts of beer for the price of one. He says he will do away with money and he will pay for what everyone eats and drinks. He says that all will dress alike and there will be no more disputes because everyone will live like brothers.¹⁸

At that point, very much in favor of such a utopian ideal, Dick the Butcher shouts: "*The first thing we do, let's kill all the lawyers.*" To which Cade agrees, noting that: "Some say the bee stings, but I say 'tis the bee's wax, for I did but seal once to a thing and I was never mine own man since."¹⁹

Suddenly, a clerk is dragged in as a prisoner, accused of the crime of being able to read and write and of preparing lessons to teach young boys to do the same. Cade asks the clerk if he can write his name or if he has a mark like an honest plain-dealing man. The clerk answers that he can read and write, whereupon Cade pronounces sentence: "Away with him, I say. Hang him with his pen and inkhorn about his neck."²⁰

After the clerk is led away, two supporters of the King, Sir Humphrey Stafford and his brother

⁸*Id.* at 47.

⁹*Id.* at Act IV, scene ii, 69.

¹⁰W. Shakespeare, *Henry VI, Pt. II*, 493 n.359 (The Complete Pelican Shakespeare ed. 1969).

¹¹An Encyclopedia of World History 293 (W. Langer ed. 1972).

¹²The Complete Pelican Shakespeare, *supra* note 10, at 475.

¹³Shakespeare, *supra* note 1, at Act IV scene ii, 66.

¹⁴*Id.*

¹⁵*Id.*

¹⁶*Id.*

¹⁷*Id.* at 67.

¹⁸*Id.*

¹⁹*Id.* at 68.

²⁰*Id.*

William, arrive and attempt to talk Cade and his followers into turning back. All refuse, a fight ensues and the Staffords are killed.²¹ Emboldened, the rebels begin their march on London. The King is advised by a messenger that the rebels have reached Southwark, a suburb of London, and intend to kill "[a]ll scholars, lawyers, courtiers (and) gentlemen", to which the king cries: "O graceless men! They know not what they do."²²

Cade's forces take London Bridge, then London Stone, an ancient London landmark, where Cade kills one of his own men for failing to address him as Lord Mortimer, a title he has given himself.²³ Cade then directs some of his men to destroy the Savoy, the London residence of the Duke of Lancaster, and others to destroy the Inns of Court, the center of legal training and practice.²⁴ A series of punning exchanges ensue among Cade and three of his men:

"Dick the Butcher: I have a suit unto your lordship.

Cade: Be it a lordship, thou shalt have it for that word.

Butcher: Only that the laws of England may come out of your mouth.

Rebel: Mass, 'twill be sore law then for he was thrust in the mouth with a spear and 'tis not whole yet.

Smith the Weaver: Nay, John, it will be stinking law, for his breath stinks with eating toasted cheese.

Cade: I have thought upon it; it shall be so. Away, burn all the records of the realm! My mouth shall be the parliament of England.

Rebel: Then we are like to have biting statutes, unless his teeth be pulled out."²⁵

Cade's forces continue their advance and capture Lord Say, Treasurer of England, who has been ac-

cused of being in league with Suffolk concerning the agreement to return Anjou and Maine to the French. Cade orders his killing;²⁶ that event is the high water mark for Cade and his rebel band. Shortly thereafter, emissaries of the King arrive in an attempt to bring about a truce. After shifting sides back and forth, the rebels agree, against Cade's wishes, to support the King. It is announced that all who do agree to lay down arms and go home will be given a pardon.²⁷ Thus, Dick the Butcher, who uttered that infamous line about lawyers, scurries off into ignominy never to be heard from again. Cade is left alone and escapes with a price on his head.²⁸

Cade hid in the forest for five days, finally emerging, starving. He notes: "Fie on ambitions."²⁹ In search of food, Cade climbs a garden wall and is discovered by the owner of the land, Sir Alexander Iden. Iden, not knowing it is Cade, tells his visitor he means him no harm. But Cade forces the issue and, in an ensuing swordfight, is mortally wounded. As he lays dying, Cade informs Iden of his identity.

Iden thereupon speaks a fitting epitaph to anyone who would lead a throng in sullyng the good offices of a scholar, a courtier, a gentleman, but most particularly, a lawyer:

Die, damned wretch, the curse of her that bare thee!

And as I thrust thy body in with my sword,
So wish I, I might thrust thy soul to hell!

Hence will I drag thee headlong by the heels

Unto a dunghill, which shall be thy grave,
And there cut off thy most ungracious head,

Which I will bear in triumph to the king
Leaving thy trunk for the crows to feed upon."³⁰

You are now armed with the facts. The next time someone quotes that line to you, dear practi-

²¹*Id.* at 70.

²²*Id.* at Act IV, scene iv, 72.

²³*Id.* at scene vi, 74.

²⁴*Id.* at scene vii, at 74.

²⁵*Id.*

²⁶*Id.*

²⁷*Id.* at 77.

²⁸*Id.* at scene viii, 80.

²⁹*Id.* at scene x, 81.

³⁰*Id.* at 83-84.

cioner, gently remind that person of the fate which befell Jack Cade and his followers for

speaking ill of lawyers, pointing out that he or she might one day suffer a similar fate.

Judiciary Notes

US Army Legal Services Agency

Digest-Article 69, UCMJ Application

A recent application submitted under the provisions of Article 69, UCMJ, *Gettridge*, SPCM 1982/5211, involved the lawfulness of an order to produce a handwriting exemplar.

The accused had been suspected of forging signatures on an enlisted evaluation report and was being investigated by the Criminal Investigation Division (CID). At the request of local CID officials and without previously warning the accused of his rights under Article 31, UCMJ, the accused's commander gave the accused four separate orders to write the names of four specified persons on a blank enlisted evaluation report. The accused refused to obey the orders and was subsequently charged with four violations of Article 90, UCMJ.

At trial, the accused moved for dismissal of the charges, claiming that, under *United States v.*

Minnifield, 9 U.S.C.M.A. 373, 26 C.M.R. 153 (1958), a suspect cannot be compelled to create evidence against himself, such as a handwriting exemplar. Thus, the orders of his commander would have required the accused to incriminate himself. The motion was denied and the accused was convicted of willful disobedience of the four orders. The accused renewed his contention in his application for relief to The Judge Advocate General.

The Judge Advocate General denied relief, finding that the *Minnifield* rule had effectively been overturned by the holdings of the Court of Military Appeals in *United States v. Armstrong*, 9 M.J. 374 (C.M.A. 1980), and *United States v. Lloyd*, 10 M.J. 172 (C.M.A. 1981). Under the rule announced in these two cases, a handwriting exemplar may be compelled without the necessity of a prior Article 31 rights warning.

Legal Assistance Items

Major Joseph C. Fowler, Major John F. Joyce, Major William C. Jones,
Major Harlan M. Heffelfinger, and Captain Timothy J. Grendell
Administrative and Civil Law Division, TJAGSA

Citizenship Documentation

In the past, United States citizens born abroad who desired to conclusively document their citizenship had to obtain a Certificate of Citizenship from the Immigration and Naturalization Service (INS) by submitting INS Form N-600, Application for Certificate of Citizenship. This requirement has been eliminated for citizens who already possess either an unexpired, full-validity United States Passport or an FS-240, Report of Birth Abroad of a Citizen of the United States.

Pub. L. No. 97-241, the Department of State Authorization Act, Fiscal Years 1982 and 1983, through an amendment to the State Department Basic Authorities Act of 1956, elevated the valid passport and the FS-240 to equal evidentiary

weight with the Certificate of Citizenship. This event comes as good news to the many military families with children born in overseas hospitals where FS-240s are issued rather than birth certificates. Requirements for obtaining Certificates of Citizenship remain in effect for individuals desiring to conclusively document their citizenship who do not possess the valid passport or FS-240.

Involuntary Support Allotment Procedures Changed

The US Army Finance Center (USAFAC) has changed its notification procedures concerning involuntary allotments under recently-enacted Public Law 97-248. USAFAC will *not* send a copy of the notice and supporting documentation to the legal assistance office nearest the servicemember

involved as announced in the last issue of *The Army Lawyer*. Legal assistance offices also will not be required to notify USAFAC that the servicemember concerned has consulted with a legal assistance officer. This procedural change does not affect the statutory requirement that a servicemember consult with a legal assistance officer or 30 days elapse prior to commencement of the involuntary allotment.

Survivor Benefits for Ex-spouses

The Department of Defense (DOD) has concluded that the provisions of the Former Spouses Protection Act, Public Law 97-252, pertaining to

survivor benefit plan (SBP) coverage of former military spouses will not provide SBP coverage for these individuals. In particular, DOD noted the statute's failure to provide for a change in the SBP law which would permit retirees to change their SBP beneficiary at the time of divorce. Once a servicemember elects his or her "spouse" as beneficiary at the time of retirement, the current SBP law precludes a subsequent change when the status of the spouse becomes "ex-spouse." DOD will advise Congress of this apparent conflict between the intent of the Former Spouses Protection Act and the substantive limitations of the existing SBP law.

FROM THE DESK OF THE SERGEANT MAJOR

By Sergeant Major John Nolan



1. Supervision

The function of supervision is to close the gap between desired and actual human performance. If the mere issuance of policies and instructions would induce our legal clerks and court reporters to do what they are supposed to do, supervision would not be necessary.

The administrative office manager is concerned with the planning, organizing and supervising of the work of subordinate personnel. Supervision also involves control: securing actual performance that approximates the desired performance.

Planning includes setting up the best methods to produce an acceptable quality of office work in a standard quantity so that production may be measured. Maintaining such standards, with due consideration of the human relationships existing in office work and supervision, should make it possible to reduce the number of personnel required to get the job done.

The practical aspects of management involve the performance of a certain job by the one best method and by the one best person in order to accomplish the best results. A trained NCO or supervisor is therefore needed to assure the accomplish-

ment of these three aspects of carrying out a job. The supervisor attempts to effect the best results by careful planning and scheduling, and by providing effective leadership arising from cooperation; for, wherever more than one person is involved in any job, the best results can be obtained only by the utmost cooperation.

2. Continuing Education

A survey of the legal clerks and court reporters enrolled in the Law for Legal Clerks/Legal Administrative Technicians Correspondence Courses at The Judge Advocate General's School as of 1 October 1982 reveals the following:

- a. Law for Legal Clerks Course (Correspondence)
 - 343—Active Duty
 - 96—Reserve
 - 19—National Guard
- b. Legal Administrative Technicians (Correspondence)
 - 112—Active Duty
 - 29—Reserve
 - 20—National Guard
 - 46—Miscellaneous

3. Workshops and Conferences

Several MACOMs are presently conducting mini-conferences and workshops throughout the Corps to better prepare their personnel for upcoming training and to provide them with the latest update on office equipment. Such programs are an excellent means by which to keep personnel current on developments in their fields. Our legal clerks and court reporters are some of the best trained personnel in the Army. In order to maintain that status, we must continue to push our training program at all levels. Those MACOMs without such programs should consider developing them in the future.

4. NCOs - Claims Service

During the past summer months, six NCOs were assigned to the U.S. Army Claims Service, Fort George G. Meade, Maryland. One of the purposes of these assignments is to provide a *direct link* between the NCOs in the claims field offices and USARCS. Field office NCOICs are encouraged to contact the NCOs listed below as they are *your* access in obtaining administrative or technical assistance:

Personnel Claims and Recovery Division:

SFC Roberts—NCOIC Claims Svc/Para-Legal Recovery Branch

Autovon: 923-3848

Commercial: (301) 677-3848/7694

FTS: (938) - 7694

SFC Flowers—Admin NCO—Recovery Branch

Autovon: 923-5773

Commercial: (301) 677-5773/7789

FTS: (938) 7789

SFC Mason—Post Settlement Review/Adjudications

Autovon: 923-4240

Commercial: (301) 677-4240/7784

FTS: (938) - 4240

General Claims Division:

SFCs Manning, Brown, and Bowman—Claims Investigators

Autovon: 923-7854

Commercial: (301) 677-7854/4647/4648

FTS: (938) 7854

Reserve Affairs Items

Reserve Affairs Department, TJAGSA

Promotion Boards

Boards will convene at RCPAC for mandatory promotion consideration for personnel who will be eligible for promotion on or before the eligibility cut-off date shown.

| From | To | Date of Board | Eligibility Cut-off Date |
|--------------|-----------|---------------|--------------------------|
| 1LT | CPT | 11 Jan 83 | 15 May 84 |
| CPT | MAJ | 8 Mar 83 | 15 May 84 |
| MAJ | LTC | 7 Sep 83 | 31 Dec 84 |
| WO, CW2, CW3 | CW2, 3, 4 | 14 Jun 83 | 31 Aug 84 |

It is the responsibility of each officer to insure that his or her file, which goes before the promotion board, is an accurate depiction of military service rendered. Your records should contain a picture of you reflecting positive military appear-

ance and bearing. The latest physical should reflect your height and weight within the requirements established in AR 600-9. Finally, your record must reflect you have achieved the educational prerequisite for promotion.

A copy of your microfiche can be obtained by writing to the Commander, RCPAC. You must personally sign the request, list your social security number, and state the address to which the microfiche is to be sent. Additional assistance, if necessary, can be obtained from Major William Gentry, JAGC PMO at RCPAC: 1-800-325-4916.

The foregoing should be accomplished not less than 90 days prior to the convening of the promotion boards to ensure the necessary corrections have been accomplished.

2. ARNG Mobilization Legal Planning Course (6-8 January 1983)

The ARNG Mobilization Legal Planning Course will be held at The Judge Advocate General's School, Charlottesville, Virginia from 6-8 January 1983. The purpose of the course is to provide instruction to Army National Guard judge advocates concerning practical aspects of mission planning and accomplishment in a mobilization status. This course will focus on problems and issues concerning judge advocates when units and members of the ARNGUS have been ordered to active duty in a national emergency. Discussion will concentrate on current legal developments, judge advocate responsibilities and roles, and lessons learned from prior mobilizations. Attendees should be the ARNG State Staff Judge Advocate or the state's

ranking judge advocate. The course is limited to one representative per state, commonwealth, or territory.

Erratum

In *Accepting the Challenge: Congress Reverses* McCarty, published in the November 1982 issue of *The Army Lawyer*, the author stated, at page 21 of the issue: "All ex-spouses are entitled to 180 days of medical care immediately following termination of the marriage." This statement was graphically highlighted in a chart immediately following the paragraph in which that line appeared. Both the statement and that portion of the chart are incorrect. Although such a provision had been included in earlier versions of the bill, it was deleted prior to final enactment. We regret the error.

CLE News

1. The 1983 Government Contract Law Symposium.

The faculty of the Contract Law Division of The Judge Advocate General's School are pleased to announce the following topics and guest speakers for the 1983 Government Contract Law Symposium: "Carlucci Initiatives," Mr. Burton M. Blair, Command Counsel, HQ, DARCOM; "Source Selection," Professor Ralph C. Nash, National Law Center, The George Washington University; "Department of the Army Contract Law Perspectives," Colonel Ronald P. Cundick, Chief, Contract Law Division, Office of The Judge Advocate General; "Commercial Activities Program Developments: Office of Federal Procurement Policy," Ms. Patricia A. Szervo, Associate Administrator for Procurement Law and Legislation, Office of Federal Procurement Policy, Executive Office of the President, Office of Management and Budget; "Industries' View of the Commercial Activities Program," Mr. J. S. Simpson, Project Manager, Pan American World Airways, Fort Gordon, Georgia; "Labor Problems and the Commercial Activities Program," Colonel Robert M. Nutt, Chief, Labor and Civilian Personnel Law Office, Office of The Judge Advocate General; "Small Business and the Commercial Activities Program," Mr. Donald P. Young, Deputy General Counsel, Small Busi-

ness Administration; "Statements of Work and the Commercial Activities Program," Mr. Laren Bates, Office of the Staff Judge Advocate HQ, FORSCOM; "A & E Contracting," Mr. Lester Edelman, Chief Counsel, United States Army Corps of Engineers; "Construction Law Update," Mr. Roy S. Mitchell of Lewis, Mitchell and Moore, Vienna, Virginia; "Bid Protests," Mr. Seymour Efros, Associate General Counsel, General Accounting Office; "United States Claims Court," Honorable David Schwartz, Senior Judge United States Claims Court; "Government's View of Disputes," Colonel James F. Price, Contract Appeals Division, U.S. Army Legal Services Agency; "Contractor's View of Disputes," Mr. Eldon J. Crowell of Crowell and Moring, Washington, D.C.; "Contractor's View of Disputes," Mr. Wilsie Adams of McKenna, Conner and Cuneo, Washington, D.C.; and "Armed Services Board of Contract Appeals View of Disputes," Judge Paul E. Williams, Armed Services Board of Contract Appeals. The Symposium will be held 10-14 January 1983.

2. TJAGSA Materials Available Through Defense Technical Information Center

Each year TJAGSA publishes deskbooks and materials to support resident instruction. Much of this material is found to be useful to judge advo-

cates and government civilian attorneys who are not able to attend courses in their practice areas. This need is satisfied in many cases by local reproduction or returning students' materials or by requests to the MACOM SJA's who receive "camera ready" copies for the purpose of reproduction. However, the School still receives many requests each year for these materials. Because such distribution is not within the School's mission, TJAGSA does not have the resources to provide these publications.

In order to provide another avenue of availability some of this material is being made available through the Defense Technical Information Center (DTIC). There are two ways an office may obtain this material. The first is to get it through a user library on the installation. Most technical and school libraries are DTIC "users." If they are "school" libraries they may be free users. Other government agency users pay three dollars per hard copy and ninety-five cents per fiche copy. The second way is for the office or organization to become a government user. The necessary information and forms to become registered as a user may be requested from: Defense Technical Information Center, Cameron Station, Alexandria, VA 22314.

Once registered an office or other organization may open a deposit account with the National Technical Information Center to facilitate ordering materials. Information concerning this procedure will be provided when a request for user status is submitted.

Biweekly and cumulative yearly indices are provided users. TJAGSA publications may be identified for ordering purposes through these. Also, recently published titles and the identification numbers necessary to order them will be published in *The Army Lawyer*.

The following publications are in DTIC: (The nine character identifiers beginning with the letters AD are numbers assigned by DTIC and must be used when ordering publications.)

AD NUMBER TITLE

AD B063185 Criminal Law, Procedure,
Pretrial Process/
JAGS-ADC-81-1

| AD NUMBER | TITLE |
|------------------|--|
| AD B063186 | Criminal Law, Procedure, Trial/JAGS-ADC-81-2 |
| AD B063187 | Criminal Law, Procedure, Posttrial/JAGS-ADC-81-3 |
| AD B063188 | Criminal Law, Crimes & Defenses/JAGS-ADC-81-4 |
| AD B063189 | Criminal Law, Evidence/ JAGS-ADC-81-5 |
| AD B063190 | Criminal Law, Constitutional Evidence/JAGS-ADC-81-6 |
| AD B064933 | Contract Law, Contract Law Deskbook/JAGS-ADK-82-1 |
| AD B064947 | Contract Law, Fiscal Law Deskbook/JAGS-ADK-82-2 |

Those ordering publications are reminded that they are for government use only.

3. Resident Course Quotas

Attendance at resident CLE courses conducted at The Judge Advocate General's School is restricted to those who have been allocated quotas. Quota allocations are obtained from local training offices which receive them from the MACOM's. Reservists obtain quotas through their unit or RCPAC if they are non-unit reservists. Army National Guard personnel request quotas through their units. The Judge Advocate General's School deals directly with MACOM and other major agency training offices. Specific questions as to the operation of the quota system may be addressed to Mrs. Kathryn R. Head, Nonresident Instruction Branch, The Judge Advocate General's School, Army, Charlottesville, Virginia 22901 (Telephone: AUTOVON 274-7110, extension 293-6286; commercial phone: (804) 293-6286; FTS: 938-1304).

4. TJAGSA CLE Course Schedule

January 6-8: Army National Guard Mobilization Legal Planning Course.

January 10-14: 1983 Contract Law Symposium (5F-F11).

January 10-14: 4th Administrative Law for Military Installations (Phase I) (5F-F24).

January 17-21: 4th Administrative Law for Military Installations (Phase II) (5F-F24).

January 17-21: 69th Senior Officer Legal Orientation (5F-F1).

January 24-28: 23d Federal Labor Relations (5F-F22).

January 24-April 1: 100th Basic Course (5-27-C20).

February 7-11: 8th Criminal Trial Advocacy (5F-F32).

February 14-18: 22nd Law of War Workshop (5F-F42).

February 28-March 11: 95th Contract Attorneys (5F-F10).

March 14-18: 12th Legal Assistance (5F-F23).

March 21-25: 23d Law of War Workshop (5F-F42).

March 28-30: 1st Advanced Law of War Seminar (5F-F45).

April 6-8: JAG USAR Workshop.

April 11-15: 2nd Claims, Litigation, and Remedies (5F-F13).

April 11-15: 70th Senior Officer Legal Orientation (5F-F1).

April 18-20: 5th Contract Attorneys Workshop (5F-F15).

April 25-29: 13th Staff Judge Advocate (5F-F52).

May 2-6: 5th Administrative Law of Military Installations (Phase I) (5F-F24).

May 9-13: 5th Administrative Law for Military Installations (Phase II) (5F-F24).

May 10-13: 16th Fiscal Law (5F-F12).

May 16-June 3: 26th Military Judge (5F-F33).

May 16-27: 96th Contract Attorneys (5F-F10).

June 6-10: 71st Senior Officer Legal Orientation (5F-F1).

June 13-17: Claims Training Seminar (U.S. Army Claims Service).

June 20-July 1: JAGSO Team Training.

June 20-July 1: BOAC: Phase II.

July 11-15: 5th Military Lawyer's Assistant (512-71D/20/30).

July 13-15: Chief Legal Clerk Workshop.

July 18-22: 9th Criminal Trial Advocacy (5F-F32).

July 18-29: 97th Contract Attorneys (5F-F10).

July 25-September 30: 101st Basic Course (5-27-C20).

August 1-5: 12th Law Office Management (7A-713A).

August 15-May 19, 1984: 32nd Graduate Course (5-27-C22).

August 22-24: 7th Criminal Law New Developments (5F-F35).

September 12-16: 72nd Senior Officer Legal Orientation (5F-F1).

October 11-14: 1983 Worldwide JAG Conference.

October 17-December 16: 102nd Basic Course (5-27-C20).

5. Civilian Sponsored CLE Courses

March

1-29: MCLNEL, Trial Skills, Boston, MA.

3: MCLNEL, Landlord & Tenant, Beverly, MA.

3-5: UMLC, Medical Institute for Attorneys, Miami Beach, FL.

4-5: GICLE, Family Law, Atlanta, GA.

5: VACLE, Collections Law & Practice, Norfolk, VA.

6-10: Investigation and Prosecution—The Prosecutor's Dual Role, Washington, DC.

11: GICLE, Advanced Tax, Atlanta, GA.

11: GICLE, Employment Discrimination, Atlanta, GA.

11-12: ATLA, Criminal Law, Las Vegas, NV.

12: MCLNEL, Massachusetts Criminal Practice & Procedure, Cambridge, MA.

21-26: GICLE, Georgia Institute of Trial Advocacy, Athens, GA.

25-26: KCLE, Legal Issues for Bank Counsel, Lexington, KY.

26: MCLNEL, Real Estate Tax Abatements, Brockton, MA.

For further information on civilian courses, please contact the institution offering the course, as listed below. Commencing with the January 1983 issue of *The Army Lawyer*, the addresses of these organizations will be listed quarterly.

AAA: American Arbitration Association, 140 West 51st Street, New York, NY 10020.

AAJE: American Academy of Judicial Education, Suite 437, 539 Woodward Building, 1426 H Street NW, Washington, DC 20005. Phone: (202) 783-5151.

ABA: American Bar Association, 1155 E. 60th Street, Chicago, IL 60637.

ABICLE: Alabama Bar Institute for Continuing Legal Education, Box CL, University, AL 35486.

AKBA: Alaska Bar Association, P.O. Box 279, Anchorage, AK 99501.

ALEHU: Advanced Legal Education, Hamline University School of Law, 1536 Hewitt Avenue, St. Paul, MN 55104.

ALIABA: American Law Institute-American Bar Association Committee on Continuing Professional Education, 4025 Chestnut Street, Philadelphia, PA 19104.

ARKCLE: Arkansas Institute for Continuing Legal Education, 400 West Markham, Little Rock, AR 72201.

ASLM: American Society of Law and Medicine, 520 Commonwealth Avenue, Boston, MA 02215.

ATLA: The Association of Trial Lawyers of America, 1050 31st St., N.W. (or Box 3717), Washington, DC 20007. Phone: (202) 965-3500.

CALM: Center for Advanced Legal Management, 1767 Morris Avenue, Union, NJ 07083.

CCEB: Continuing Education of the Bar, University of California Extension, 2150 Shattuck Avenue, Berkeley, CA 94704.

CCLE: Continuing Legal Education in Colorado, Inc., University of Denver Law Center, 200 W. 14th Avenue, Denver, CO 80204.

CLEW: Continuing Legal Education for Wisconsin, 905 University Avenue, Suite 309, Madison, WI 53706.

DLS: Delaware Law School, Widener College, P.O. Box 7474, Concord Pike, Wilmington, DE 19803.

FBA: Federal Bar Association, 1815 H Street, N.W., Washington, DC 20006. Phone: (202) 638-0252.

FJC: The Federal Judicial Center, Dolly Madison House, 1520 H Street, N.W., Washington, DC 20003.

FLB: The Florida Bar, Tallahassee, FL 32304.

FPI: Federal Publications, Inc., Seminar Division Office, Suite 500, 1725 K Street NW, Washington, DC 20006. Phone: (202) 337-7000.

GICLE: The Institute of Continuing Legal Education in Georgia, University of Georgia School of Law, Athens, GA 30602.

GTULC: Georgetown University Law Center, Washington, DC 20001.

HICLE: Hawaii Institute for Continuing Legal Education, University of Hawaii School of Law, 1400 Lower Campus Road, Honolulu, HI 96822.

HLS: Program of Instruction for Lawyers, Harvard Law School, Cambridge, MA 02138.

ICLEF: Indiana Continuing Legal Education Forum, Suite 202, 230 East Ohio Street, Indianapolis, IN 46204.

ICM: Institute for Court Management, Suite 210, 1624 Market St., Denver, CO 80202. Phone: (303) 543-3063.

IPT: Institute for Paralegal Training, 235 South 17th Street, Philadelphia, PA 19103.

KCLE: University of Kentucky, College of Law,

- Office of Continuing Legal Education, Lexington, KY 40506.
- LSBA: Louisiana State Bar Association, 225 Baronne Street, Suite 210, New Orleans, LA 70112.
- LSU: Center of Continuing Professional Development, Louisiana State University Law Center, Room 275, Baton Rouge, LA 70803.
- MCLNEL: Massachusetts Continuing Legal Education—New England Law Institute, Inc., 133 Federal Street, Boston, MA 02108, and 1387 Main Street, Springfield, MA 01103.
- MIC: Management Information Corporation, 140 Barclay Center, Cherry Hill, NJ 08034.
- MICLE: Institute of Continuing Legal Education, University of Michigan Hutchins Hall, Ann Arbor, MI 48109.
- MOB: The Missouri Bar Center, 326 Monroe, P.O. Box 119, Jefferson City, MO 65102.
- NCAJ: National Center for Administration of Justice, Consortium of Universities of the Washington Metropolitan Area, 1776 Massachusetts Ave., NW, Washington, DC 20036. Phone: (202) 466-3920.
- NCATL: North Carolina Academy of Trial Lawyers, Education Foundation, Inc., P.O. Box 767, Raleigh, NC 27602.
- NCCD: National College for Criminal Defense, College of Law, University of Houston, 4800 Calhoun, Houston, TX 77004.
- NCDA: National College of District Attorneys, College of Law, University of Houston, Houston, TX 77004. Phone: (713) 749-1571.
- NCJFCJ: National Council of Juvenile and Family Court Judges, University of Nevada, P.O. Box 8978, Reno, NV 89507.
- NCLE: Nebraska Continuing Legal Education, Inc., 1019 Sharpe Building, Lincoln, NB 68508.
- NCSC: National Center for State Courts, 1660 Lincoln Street, Suite 200, Denver, CO 80203.
- NDAA: National District Attorneys Association, 666 North Lake Shore Drive, Suite 1432, Chicago, IL 60611.
- NITA: National Institute for Trial Advocacy, William Mitchell College of Law, St. Paul, MN 55104.
- NJC: National Judicial College, Judicial College Building, University of Nevada, Reno, NV 89507. Phone: (702) 784-6747.
- NLADA: National Legal Aid & Defender Association, 1625 K Street, NW, Eighth Floor, Washington, DC 20006. Phone: (202) 452-0620.
- NPI: National Practice Institute Continuing Legal Education, 861 West Butler Square, 100 North 6th Street, Minneapolis, MN 55403. Phone: 1-800-328-4444 (In MN call (612) 338-1977).
- NPLTC: National Public Law Training Center, 2000 P. Street, N.W., Suite 600, Washington, D.C. 20036.
- NWU: Northwestern University School of Law, 357 East Chicago Avenue, Chicago, IL 60611.
- NYSBA: New York State Bar Association, One Elk Street, Albany, NY 12207.
- NYSTLA: New York State Trial Lawyers Association, Inc., 132 Nassau Street, New York, NY 12207.
- NYULS: New York University School of Law, 40 Washington Sq. S., New York, NY 10012.
- NYULT: New York University, School of Continuing Education, Continuing Education in Law and Taxation, 11 West 42nd Street, New York, NY 10036.
- OLCI: Ohio Legal Center Institute, 33 West 11th Avenue, Columbus, OH 43201.
- PATLA: Pennsylvania Trial Lawyers Association, 1405 Locust Street, Philadelphia, PA 19102.
- PBI: Pennsylvania Bar Institute, P.O. Box 1027, 104 South Street, Harrisburg, PA 17108.
- PLI: Practising Law Institute, 810 Seventh Avenue, New York, NY 10019. Phone: (212) 765-5700.
- SBM: State Bar of Montana, 2030 Eleventh Avenue, P.O. Box 4669, Helena, MT 59601.
- SBT: State Bar of Texas, Professional Develop-

- ment Program, P.O. Box 12487, Austin, TX 78711.
- SCB: South Carolina Bar, Continuing Legal Education, P.O. Box 11039, Columbia, SC 29211.
- SLF: The Southwestern Legal Foundation, P.O. Box 707, Richardson, TX 75080.
- SMU: Continuing Legal Education, School of Law, Southern Methodist University, Dallas, TX 75275.
- SNFRAN: University of San Francisco, School of Law, Fulton at Parker Avenues, San Francisco, CA 94117.
- TUCLE: Tulane Law School, Joseph Merrick Jones Hall, Tulane University, New Orleans, LA 70118.
- UHCL: University of Houston, College of Law, Central Campus, Houston, TX 77004.
- UMLC: University of Miami Law Center, P.O. Box 248087, Coral Gables, FL 33124.
- UTCLE: Utah State Bar, Continuing Legal Education, 425 East First South, Salt Lake City, UT 84111.
- VACLE: Joint Committee of Continuing Legal Education of the Virginia State Bar and The Virginia Bar Association, School of Law, University of Virginia, Charlottesville, VA 22901.
- VUSL: Villanova University, School of Law, Villanova, PA 19085.

Current Materials of Interest

1. Regulations, Pamphlets, etc.

| Number | Title | Change | Date |
|---------------|--|--------|-----------|
| AR 200-1 | Environmental Protection and Enhancement | | 15 Jun 82 |
| AR 635-200 | Enlisted Separations | I01 | 14 Oct 82 |
| AR 230-60 | The Management and Administration of the U.S. Army Club System | I01 | 20 Oct 82 |
| AR 670-1 | Wear and Appearance of Army Uniforms and Insignia | | 1 Nov 82 |
| DA Pam 550-41 | South Korea: A Country Study | | 1982 |

2. Articles

- Clanon, Shawyer, & Kurdys, *Less Insanity in the Courts*, 68 A.B.A.J. 824 (1982).
- Coombs, *Interstate Child Custody: Jurisdiction, Recognition, and Enforcement*, 66 Minn. L. Rev. 711 (1982).
- Deffenbacher & Loftus, *Do Jurors Share a Common Understanding Concerning Eyewitness Behavior?*, 6 L. & Human Behavior 15 (1982).
- Heffernan, *Effective Use of Demonstrative Evidence: "Seeing Is Believing,"* 5 Am. J. Trial Advocacy 427 (1982).
- Paul, *The Medical Examination of the Live Rape Victim and the Accused*, 1982 Medical Trial Technique Q. 424.
- Purver & Taylor, *The Criminal Appeal: Writing to Win!*, Case & Comment, Sept.-Oct. 1982, at 3.
- Zoeller & Lynch, *Expert Testimony under the Federal Rules of Evidence—Introduction and Overview*, Legal Notes & Viewpoints Q., May 1982, at 31.
- Case Note, *Freedom of Information Act—No Improper Withholding If Records Are Removed From Agency Prior to Freedom of Information Act Request*, 21 Santa Clara L. Rev. 1161 (1981).
- Comment, *The Admissibility of Hypnotically Induced Recollection*, 70 Ky. L.J. 187 (1981-82).
- Note, *Custom and General Principles as Sources of International Law in American Federal Courts*, 82 Colum. L. Rev. 751 (1982).

Note, *Interview Notes of Government Agents Under the Jencks Act*, 80 Mich. L. Rev. 1695 (1982).

Note, *Income Tax Treatment of Child and Dependent Care Costs: The 1981 Amendments*, 60 Tex. L. Rev. 321 (1982).

Recent Developments, *Constitutional Law—Court Issues Guidelines Concerning Coerced Consent to Search and Seizure*, 6 Am. J. Trial Advocacy 533 (1982).

Recent Developments, *Evidence—Admission of Testimony Obtained by Hypnosis*, 6 Am. J. Trial Advocacy 547 (1982).

Recent Developments, *Evidence—Hypnotically Refreshed Testimony Ruled Inadmissible*, 6 Am. J. Trial Advocacy 549 (1982).

Recent Developments, *Evidence—Evidence of Polygraph Test and Testimony of Polygrapher*

Held Inadmissible in Criminal Trial, 6 Am. J. Trial Advocacy 554 (1982).

3. Copies Available of Project: *The Administrative Consequences of Courts-martial*, *The Advocate*, July–August 1982

The July–August issue of *The Advocate* was devoted to a study of the administrative consequences of conviction by court-martial. Recognizing that this issue may be of use to members of a staff judge advocate office, such as legal assistance officers, the editors of *The Advocate* have indicated that extra copies of the issue are available to attorneys in the field. Staff judge advocate offices may obtain up to ten copies of the issue by writing *The Advocate*, USALSA/DAD, 5611 Columbia Pike, Falls Church, VA 22041. Requests for more than ten copies may be filled if sufficient stock is on hand.

Army Lawyer Cumulative Index

This edition contains a subject, title, and author index of all articles appearing in *The Army Lawyer* from January 1982 through December 1982. *The Judge Advocate General's Opinions* (digests); *Policy Letters and Messages from The Judge Advocate General*; *Article 69, UCMJ Applications* (Digests); and *Legal Assistance Items* published in the January 1982 through December 1982 issues are included as separate indexes. References to *The Army Lawyer* are by month, year, and page.

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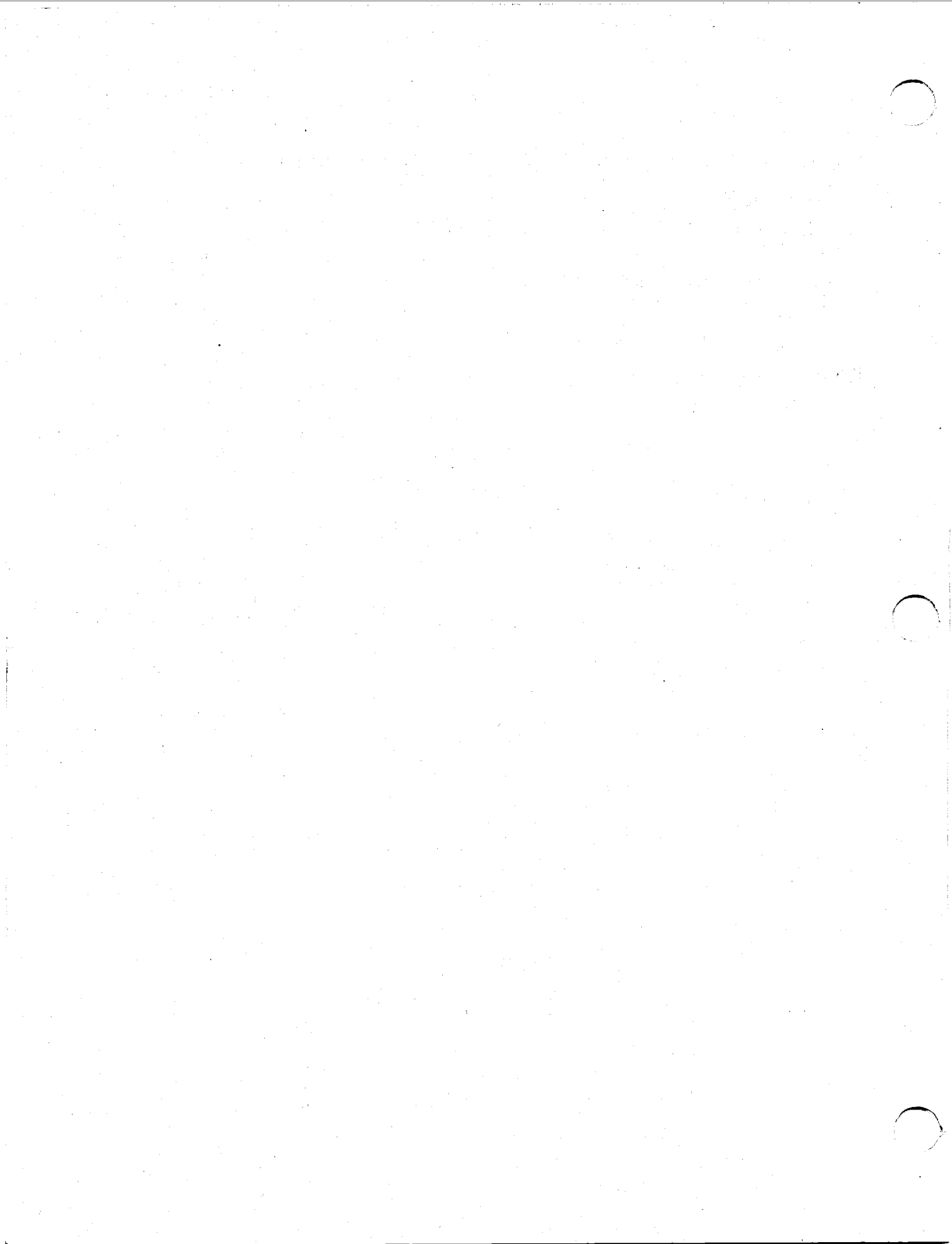
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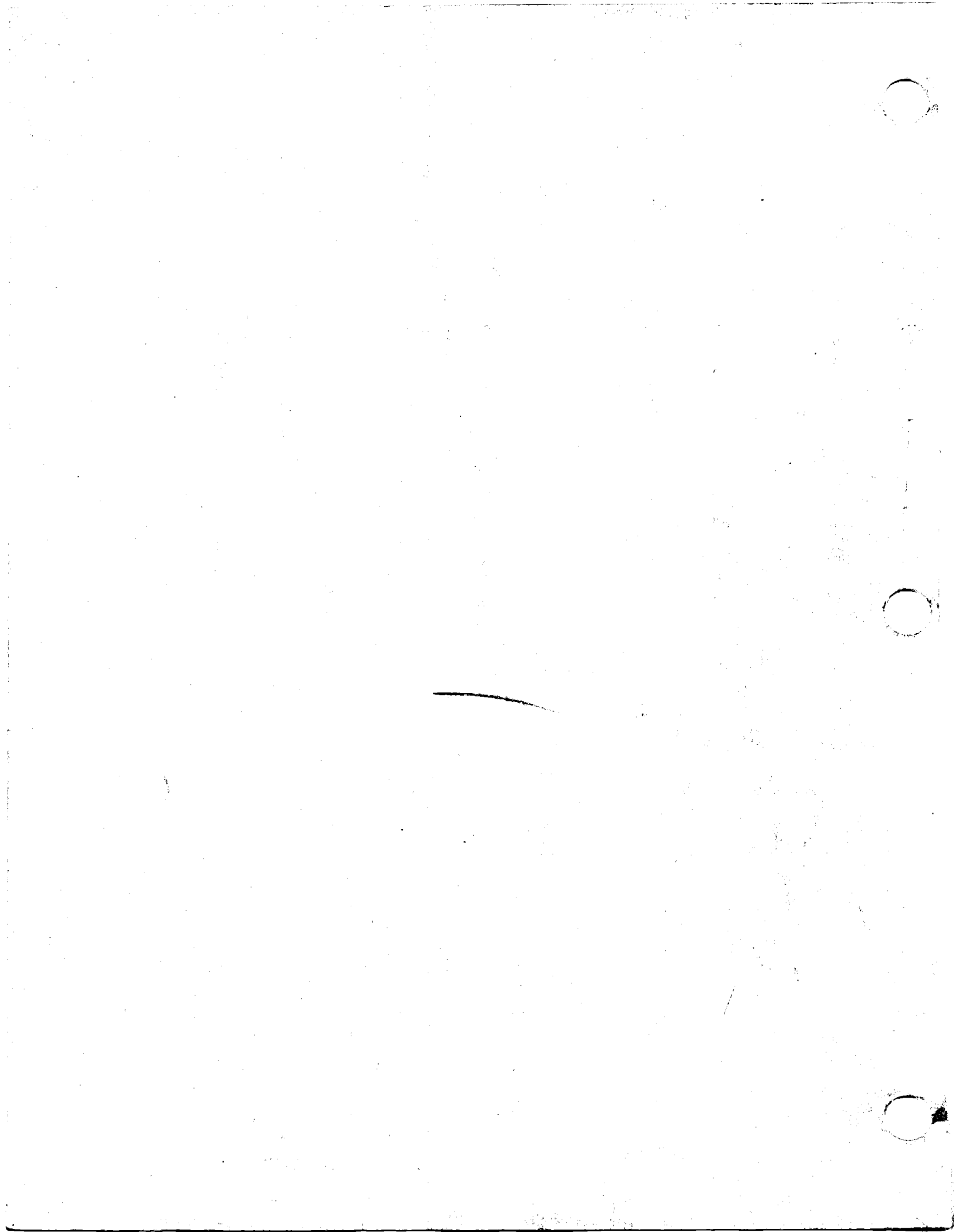
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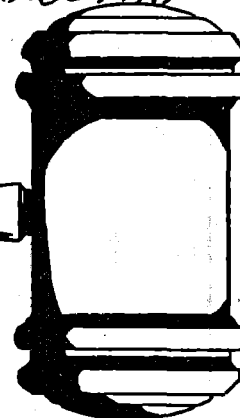
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THE ARMY LAWYER



Headquarters, Department of the Army

Department of the Army Pamphlet
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A Primer on the AirLand Battle: What Every Judge Advocate Needs to Know About the Client's Primary Business

*Lieutenant Colonel Jonathan P. Tomes
Military Law Instructor, CGSC*

The Army recently revised its tactical doctrine, which culminated in the re-publication of Field Manual 100-5, Operations (How to Fight), in August of 1982.¹ This new method of fighting is called the "AirLand Battle." The AirLand Battle is a subject Judge Advocate General's Corps officers should be familiar with for several reasons. The most obvious reason is every soldier-lawyer's professional responsibility to know what is required of every soldier. Also, a lawyer can better serve a client when he or she knows that client's business. Additionally, although we hope it never becomes necessary, the Army's primary business is fighting wars. On a more practical level, knowledge of the AirLand Battle will stand a JAGC officer in good stead if selected to attend the Combined Arms and Services Staff School (CAS³) or the US Army Command and General Staff College (CGSC). This article will attempt to familiarize the reader with the AirLand Battle and provide a basis for further study, if desired.

¹US Dept of Army, Field Manual No. 100-5, Operations (How to Fight) (20 Aug 1982) [hereinafter cited as FM 100-5].

REPLY TO
ATTENTION OFDEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON, DC 20310

DAJA-CL 1983/6307

8 NOV 1983

SUBJECT: Manual for Courts-Martial Revision

STAFF JUDGE ADVOCATES

1. The Manual for Courts-Martial, 1984, will soon be a reality. A draft of the revised Manual will soon be forwarded to the President. It is anticipated that the new Manual will become effective in the summer of 1984. The new Manual for Courts-Martial will include a substantially revised format and will also contain many important changes in military criminal law and procedure.
2. Every judge advocate must be familiar with the new Manual for Courts-Martial. To help meet this goal, three members of the Working Group which drafted the revision will provide instruction at over 30 sites in CONUS and overseas. A schedule of the dates and locations for the instruction appears later in this issue. Instruction will be given for one full day. Additional information on the program will be provided by the Criminal Law Division, Office of The Judge Advocate General.
3. I consider this training to be of the utmost importance. Every judge advocate, regardless of current duty assignment, should attend one of the sessions. Reserve judge advocates should be informed immediately of scheduled instruction and encouraged to attend. I expect staff judge advocates to make every effort to ensure maximum participation and to make this program a success.

Hugh J. Clausen
HUGH J. CLAUSEN
Major General, USA
The Judge Advocate General

REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON, DC 20310

DAJA-ZA

2 NOV 1983

SUBJECT: Active Duty "LEAN" Program — Policy Letter 83-2

ALL ACTIVE DUTY JUDGE ADVOCATES

1. This letter updates the "LEAN" (Lose Excess Avoirdupois Now) program for active duty Judge Advocate commissioned and warrant officers (applies to all RA, USAR, and ARNG/ARNGUS Judge Advocates assigned to or detailed to the JAGC who are on active duty for a period of 180 days or more; hereinafter referred to as JAGC personnel) and supersedes Policy Letters 81-2 and 82-1.
2. I fully expect all JAGC personnel to continue to maintain the highest standards of physical fitness to include maintenance of weight within prescribed standards. All JAGC personnel will participate in a regular physical training (PT) program. Individuals with physical limitations will consult a physician and initiate a PT program compatible with those limitations. All JAGC personnel will take the Army Physical Readiness Test (APRT) at least semi-annually as required by AR 350-15, unless medically excused from such testing IAW AR 40-501. Individuals age 40 and over will be medically cleared IAW AR 40-501 prior to participating in any PT program or APRT. SJAs/supervisors will report through technical channels to the Executive, OTJAG the names of individuals who fail to take or pass the APRT. The reports will include a description of each individual's remedial PT program or medical profile.
3. IAW AR 600-9 all JAGC personnel, including those medically excused from taking the APRT, will be weighed at least every six months. SJAs/supervisors will insure that JAGC personnel who exceed the weight and body fat composition standards in AR 600-9 are enrolled in the Army Weight Control Program with definite goals designed to achieve AR 600-9 standards within a reasonable period of time. Overweight individuals will report their progress to their SJA/supervisor on the first workday of each week. On the first workday of each month overweight individuals will submit a written report on their progress to their SJA/supervisor, with an explanation of any failure to meet interim goals of their weight reduction program. The SJA/supervisor will indorse these letters through technical channels to the Executive, OTJAG. JAGC personnel in the weight control program who have no weight loss after two consecutive

DAJA-ZA

SUBJECT: Active Duty "LEAN" Program — Policy Letter 83-2

weigh-ins will be medically reevaluated as authorized by paragraph 20e, AR 600-9. Reports concerning individuals who fail to make "satisfactory progress" (as defined in AR 600-9) will include a recommendation concerning the initiation of separation action, and will include justification for additional time in the weight control program if retention is recommended.

4. Compliance with the Army physical fitness and weight standards, as reported above and on Officer Evaluation Reports, will be carefully considered in making assignments and will be closely examined by the various selection boards convened under my authority.

5. I cannot overemphasize the personal importance I place on physical fitness and weight control. The "LEAN" program will be a matter of special interest during Article 6 inspections.

6. This management information requirement is exempt from control under paragraph 5-21, AR 335-15.



HUGH J. CLAUSEN

Major General, USA

The Judge Advocate General

REPLY TO
ATTENTION OFDEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON, DC 20310

DAJA-ZA

2 NOV 1983

SUBJECT: Reserve Component "LEAN" Program—Policy Letter 83-3

ALL RESERVE COMPONENT JUDGE ADVOCATES

1. This letter establishes a "LEAN" (Lose Excess Avoirdupois Now) program for all U.S. Army Reserve and Army National Guard Judge Advocate commissioned and warrant officers (hereinafter referred to as RCJAs) not otherwise covered by the active duty "LEAN" program (Policy Letter 83-2).
2. I note with concern the significant number of RCJAs who do not meet Army physical fitness (AR 350-15) and weight (AR 600-9) standards. Army implementation procedures for satisfying the requirements of AR 350-15 and AR 600-9 currently are being developed for the Reserve Components; however, pending publication of such procedures, I expect each RCJA to fully comply with Army physical fitness and weight standards.
3. I cannot overemphasize the personal importance I place on physical fitness and weight control. The "LEAN" program will be a matter of interest to CONUSA SJAs for units within their respective areas. I expect RC general officers and TJAGSA Department of Reserve Affairs personnel to monitor the compliance by all RCJA personnel with the "LEAN" program during on-site visits.

Hugh J. Clausen
HUGH J. CLAUSEN
Major General, USA
The Judge Advocate General

To understand the necessity for this new doctrine, a background in Soviet tactical doctrine is required. Although a mechanized war in Western Europe between NATO and the Warsaw Pact may be the least likely of the potential conflicts we face, it is the greatest threat to our national security. The U.S.S.R. is certainly our most dangerous adversary. Although the AirLand Battle was developed to apply to any theater of operations, its greatest utility may be its ability to defeat any Soviet aggression in Western Europe.

Soviet tactical doctrine has developed a set of seven principles.² Several of these, coupled with

²These seven principles are:

- Mobility and high rates of combat operations.
- Concentration of main efforts and creation of superiority in forces and means over the enemy at the decisive place and at the decisive time.
- Surprise and security.
- Combat activeness.
- Preservation of the combat effectiveness of friendly forces.
- Conformity of the goal (the purpose of an operation must conform realistically to the actual combat situation).
- Coordination (the requirement to insure that all elements of the combined arms and services operate together in battle).

U.S. Army Intelligence & Threat Analysis Center, Study No. IAG-13-U-78, Soviet Army Operations (April 1978).

Soviet superiority in troop strength and weapons systems, illustrate the problems that the AirLand Battle was developed to overcome. Soviet doctrine emphasizes mobility and high-tempo combat operations. They intend to use rapid movement to relentlessly prosecute an operation, without pause. A related principle is that of combat activeness—the principle of the offensive, requiring boldness and decisiveness in all combat operations. The principle of concentration of effort requires Soviet commanders to concentrate troops and weapons on small frontages to achieve superiority at the point of the attack. The Soviets also stress surprise. Thus, the Soviet concept of the offensive, according to these principles, is based on keeping up pressure on the enemy so that he does not have time to rest, redeploy his troops, or reinforce them. The principal method they use to keep up this pressure is called echeloning. A succeeding echelon, *i.e.* a second or third echelon, is a unit or formation which will take over from the preceding echelon when that echelon's attack is blunted or slowed. In other words, the Soviets utilize second, or where appropriate, third echelons to take over from the first echelon when it is no longer making headway. It is important to note, however, that a succeeding echelon is not a reserve. Second or third echelons always have a mission to reach the same objectives as the first echelon which are assigned before the attack

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phlet refer to both genders unless the context indicates another use.

The Army Lawyer welcomes articles on topics of interest to military lawyers. Articles should be typed doubled spaced and submitted to: Editor, *The Army Lawyer*, The Judge Advocate General's School, Charlottesville, Virginia, 22901. Footnotes, if included, should be typed on a separate sheet. Articles should follow *A Uniform System of Citation* (13th ed. 1981). Manuscripts will be returned only upon specific request. No compensation can be paid for articles.

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Issues may be cited as *The Army Lawyer*, [date], at [page number]. Second-class postage paid at Prince George's, MD and additional mailing offices. POSTMASTER: Send address changes to The Judge Advocate General's School, Attn: JAGS-DDL, Charlottesville, VA 22901.

begins, whereas a reserve would be held back to do whatever mission might be dictated by necessity.

In a conflict with the Soviets, we would not only face an enemy attempting to sustain rapid movement during the attack, but one which would use every weapon at their disposal, including nuclear and chemical weapons. Massive concentrations of troops, artillery, and rockets will make presentations of our lines inevitable. The distinction between front and rear areas will be blurred. The Soviets will utilize air and ground forces, conventional, nuclear and chemical fires, electronic combat, and other weapons against rear areas as well as front-line troops. Support facilities in the rear will be subject to attack by subversion, airmobile or airborne forces, and long-range fires.

Army tactical doctrine prior to the AirLand Battle concept was primarily predicated upon defeating each echelon as it entered the main battle area. The obvious drawback to this method of fighting was that it would allow the Soviets to keep attacking our units with fresh troops while our units became less and less combat effective. In a war of attrition, the Soviets have a clear advantage.

The AirLand Battle doctrine was developed to negate these Soviet advantages. It is an approach to combat operations predicated on developing the full potential of US forces. Under this doctrine, units will fight nonlinear battles, attacking enemy forces in depth. As FM 100-5 notes:

Air and ground maneuver forces; conventional, nuclear and chemical fires; unconventional warfare; active reconnaissance, surveillance, and target acquisition efforts; and electronic warfare will be directed against the forward and rear areas of both combatants. The AirLand Battle will be dominated by the force that retains the initiative and, with deep attack and decisive maneuver, destroys its opponent's abilities to fight and to organize in depth.³

³FM 100-5, para. 1-5.

Instead of allowing each succeeding echelon to attack as it enters the battle area, our forces will attack them before they reach the battle area, while simultaneously fighting the first echelon units.

To do this our forces must gain the initiative and exercise it aggressively to defeat the enemy. This will be done by striking critical targets whose loss will degrade the coherence of enemy operations, rather than merely attacking the enemy's lead formations. The enemy will be attacked in depth with both fire and maneuver; all efforts will be synchronized to attain the objective. Success in these operations will be based on the four basic tenets of the AirLand Battle: initiative, depth, agility, and synchronization.

Initiative mandates an offensive spirit in the conduct of all operations, including defensive operations. Our forces must seize and retain independence of action. This will enable our forces to disorganize the enemy and keep him off balance.

Depth is the heart of the AirLand Battle concept. We must use the entire depth of the battlefield to attack the enemy and prevent him from concentrating his forces at his point of choice. The deep battle will delay, disrupt, or destroy the enemy's uncommitted forces—those not in contact with our troops—and isolate his committed forces so they can be defeated.

Agility requires us to act faster than the enemy. Our commanders must learn of critical events as they occur and act quickly to avoid enemy strengths and attack enemy weaknesses. As soon as the enemy begins to counter one action, another must immediately be instituted to upset his plan.

Synchronization refers to the coordination of all resources in support of the operation. It requires unit of effort. Synchronized combined arms—infantry, armor, artillery, and aviation—coupled with other combat multipliers such as engineer obstacles and electronic warfare, complement and reinforce each other, greatly magnifying their individual strengths.

How is this deep battle to be conducted? The first requirement is the development of suffi-

cient intelligence information to know where and when to strike in the enemy's rear areas. Our intelligence assets must see deep into the enemy rear area with sensor and surveillance systems so that the commander can attack enemy second and third echelons before their combat power can be applied. There are several methods of conducting these deep attacks: interdiction by air, artillery and special operations forces, electronic warfare, deception, and maneuver. Of course, following the principle of synchronization, a number of these methods would be utilized in concert to multiply their effect.

An example of a deep attack would be a brigade-size counteroffensive into the rear area of a Soviet first-echelon division.⁴ The objectives would include command and control and support elements. The purpose of the attack would be to disrupt the cohesiveness of the Soviet advance by destroying lines of communication (LOC) and support assets, and to degrade the enemy division's ability to conduct prolonged operations. Such an attack would require good operational security (OPSEC) to insure that the enemy does not learn of the operation, and a deception plan to attempt to cause the enemy to concentrate his forces elsewhere, leaving a lightly defended area for the attack force to penetrate and leading to a high-speed march to the enemy rear.

A possible configuration for such a force would include tank and mechanized infantry battalions, augmented by an attack helicopter company, an artillery battalion, air defense artillery, and engineer assets. This force would have to be logistically self-sufficient as resupply would be next to impossible during the operation.

After intelligence assets locate the objectives for this attack and detect the commitment of second-echelon divisions, battlefield air inter-

diction⁵ would be employed to delay the advance of those divisions to prevent their closing into the objective area. Prior to the operation, electronic warfare (EW)⁶ would be employed in support of the deception plan by introducing false information into enemy signal intelligence channels; one example is portraying a withdrawal. During the operation, EW would be used to locate, for targeting or jamming, enemy emitters. FASCAM (Family of Scatterable Mines), which can be delivered by artillery, helicopters, or Air Force aircraft, would be placed on the avenues of approach where the enemy would likely try to counterattack our force. Close-air support, artillery, air defense artillery, and engineer assets, primarily to provide mobility in an attack, would also be integrated into the operation to achieve the synergistic effect of a coordinated effort, utilizing all available combat multipliers. To be successful, the operation would require speed and bold action. But, if successful, it would help stop Soviet offensive operations and permit us to defeat their forces.

⁵Battlefield air interdiction is defined as air action against hostile surface targets in position to directly affect friendly forces in the near-term. Primary targets are second-echelon forces. U.S. Army Command and General Staff College, Department of Tactics, Offense Committee, Offensive Workbook, at para. 5-32.

⁶Electronic warfare is defined as military action involving the use of electromagnetic energy to determine, exploit, reduce, or prevent hostile use of the electromagnetic spectrum and action which retains friendly use of the electromagnetic spectrum. EW is divided into three categories:

Electronic warfare support measures (ESM).

Actions taken to search for, intercept, locate, and immediately identify radiated electromagnetic energy for the purpose of immediate threat recognition and the tactical employment of forces. Direction finding of radios and radars is an ESM technique.

Electronic countermeasures. Actions taken to prevent or reduce the enemy's effective use of the electromagnetic spectrum. ECM includes jamming and deception.

Electronic counter-countermeasures (ECCM) includes actions taken to insure friendly use of the electromagnetic spectrum against electronic warfare.

Id. at para. 5-14.

⁴Barbara & Brown, *Deep Thrust on the Extended Battlefield*, Mil. Rev. Oct. 1982, at 21.

Another aspect of the AirLand Battle that should be of particular interest to JAGC personnel because it hits close to home, is the Rear Area Combat Operations (RACO) area. The deep battle does not only extend forward of our FLOT (forward line of own troops) into the enemy rear area, it also extends deep into our own rear area. A Soviet attack would probably include enemy operations targeted against our airfields, command and control centers, and logistics facilities in the rear area. The Soviet rear area threat is divided into three levels. Level 1 includes the activities of enemy agents, saboteurs, and terrorists. Base defense forces are responsible for countering level 1 threats. Level 2 includes diversionary operations and sabotage by tactical units, and is to be countered by the Military Police. Level 3, the most serious threat, involves attacks by airborne, airmobile, or amphibious operations by battalion-sized or larger units. A combat unit will normally be assigned the mission of responding to a level 3 RACO threat. It would be prudent for JAGC personnel assigned to overseas units to familiarize themselves with their unit's RACO plans; it is not impossible that JAGC personnel could become assigned base defense responsibilities during a conflict.

Although still evolving, and possibly in need of some refinement, the AirLand Battle concept is a workable method of fighting a numerically superior force and winning. The Army's organization and weapon systems are being tailored to this doctrine and it is this concept that is driving many of the changes in today's Army, including those that JAGC personnel are so integrally involved with. Therefore, the necessity for knowledge of this new doctrine is obvious. Although this article barely introduces the subject, the interested reader may learn more by reference to the works listed in the bibliography. Those who do become more familiar with the AirLand Battle will have made a significant addition to their professional knowledge.

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Law Office Automation and the Judge Advocate General's Corps

*Captain Michael L. Stevens
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Introduction

The Judge Advocate General's Corps (Corps) is now in the process of enlisting the services of Time Magazine's "machine" of the Year for 1982, the computer.¹ Although the popularity of the personal computer, also referred to as the microcomputer or home computer, has been increasing throughout the business world, the Army legal community is beginning just now to effectively utilize the computer in providing legal support. Recent emphasis has been placed on automation of our practice with the creation of a Corps Automation Management Office and the approval of the Corps' Information Systems Plan (ISP) by The Judge Advocate General. The ISP is a systems analysis of the Army's legal systems and procedures, accomplishing an effective and efficient automation of the Corps' activities.² This article is not intended to analyze the ISP, nor is it intended to make the reader fluent in "computerese;" rather it is intended to develop an awareness of a computer's capabilities at the installation staff judge advocate (SJA) office.

The practice of law in the military is not materially different from that of our counterparts in the private sector when it comes to using computers. Both fields are involved with the law and the processing of information. Computers are not prejudiced as to the type of information they process. The only real difference is that, in the government, our success relates to mission-accomplishment, whereas the private practitioner measures his success by the profitability of his practice.³ Consequently, our

primary concern does not rest with accounting for dollars and cents in the way of trust accounts, monthly statements, or billable hours but rests with the performance and accomplishment of our mission to provide legal support to the Army community. Substituting mission for profitability eliminates the dissimilarities as both practices are in the business of providing legal services and managing information and resources.

When a computer processes information in the form of text, it is called "word processing." When the information is in the form of data such as statistics, facts, or simple information, it is called "data processing." This latter category remains virgin territory in the legal world of the typical judge advocate. Even word processing, which has served the Corps well during the last decade, is often improperly utilized by the failure to take a systems approach to standardized documents. Computers will never replace the human element, but they will make the human element more productive and useful by maximizing an irreplaceable resource—time. With mission as the keystone of our practice, I will now summarize the functions that can be performed by a microcomputer in the installation SJA office.

Basic Computer Functions

Word Processing

Processing textual material is probably the most important task that a microcomputer can perform for an attorney. Speed is increased when the typist does not have to worry about the consequences of typing errors. Typographical errors and changes are noted on the document by the author and corrected by the typist directly on the screen. Typing errors can be minimized by the use of "spelling checker" programs. A spelling checker is an electronic dictionary containing 10,000 to 80,000 words plus any unique words added by the user. The typist uses the spelling checker on the document

¹Time Magazine, Jan. 3, 1983.

²The Judge Advocate General's Corps Information Systems Plan, undated; letter, JALS-AM, Office of The Judge Advocate General, undated, subject: JAGC Information System Plan.

³Hansen, *Personal Computers, Government Manager: Creating the Unique Software Market*, Government Executive, June 1983, at 42-46.

and interacts with it by providing the human element to oversee the computer's functions. The attorney's productivity is increased since less time is spent creating and editing documents which have already been preserved on the magnetic storage media of the computer.

A word processor is nothing more than a computer dedicated to the performance of one task. Computers can perform word and data processing functions; few dedicated word processors, however, have the ability to perform data processing. This potential limitation of a dedicated word processor is often overlooked, but many manufacturers of dedicated word processors have software packages, or computer programs, available which allow the word processor to perform additional office functions such as file management and scheduling of appointments. Some dedicated word processors are even capable of working in a computer operating system environment, allowing it to use many of the popular software programs written for microcomputers.⁴

Maximizing the computer's capabilities in processing text may require some re-thinking on the way a judge advocate expects to manage an office. The benefits of establishing standardized paragraphs and documents for instantaneous retrieval and modification of boilerplate material in various documents, or running a program which automatically checks for spelling and grammatical errors, is readily understood and accepted. However, the modification of our normal thought processes occurs in the development of a systems approach for using the computer. For example, boilerplate material used in wills, powers of attorney, form letters, or legal reviews of courts-martial, must all be created in advance and placed into storage on the computer. A system is then created to coordinate communications between the typist and the attorney. The system usually takes the form of indexing all the documents stored in the computer so the attorney need only provide the

typist with a pre-printed form indicating which phrases or clauses are to be used and what changes are to be made. After this forms system is established, it must be monitored and updated regularly. Although attorneys must use their professional judgement in the preparation of documents, mere stylistic changes to documents should be discouraged or the benefits gained from automation will be lost.

The printed product of our work soon may have to undergo a metamorphosis. Many documents produced by dedicated word processors are printed by letter quality printers, using either a cut-sheet feeder or a typist who manually inserts each sheet into the platen. This process is obviously slow and expensive. Use of a tractor feed would allow the printer to use continuous rolls of high quality computer paper. This would eliminate the expensive cut-sheet feeders and the operator's time spent changing the pages and monitoring the operation. The only detriment to this new system will be that our typed documents will have the "cut edge" look. Furthermore, the slow speed of letter quality printers may have to give way to the higher speed of the dot matrix printer. Not only is the dot matrix printer cheaper but it can print documents nearly four times faster than letter quality printers.⁵

Fear of the computer, or computerphobia, must also be eliminated. The quickest cure may simply be contact with the harbinger of the disease—the computer terminal. In short, attorneys must not be afraid to use the computer themselves. The computer terminal is not the foreshadow of our doom as professionals but an extension of our creativity. I created, edited, and printed the manuscript of this article using a microcomputer. I felt enormous control over my work when I was able to see it immediately on the screen and could make corrections to the text by the mere touch of a typewriter key. No

⁴For example, CP/M, or Control Program for Microcomputers, is a trademarked system offered by Digital Research Corporation that can be used with several brands of dedicated word processors to allow them to use other computer programs.

⁵The faster daisy wheel printers operate at approximately 55 characters per second (CPS) whereas dot matrix printers operate at speeds up to 200 cps. Admittedly, the quality of the dot matrix printer is less than the letter quality of a daisy wheel. However, a dot matrix can produce correspondence quality print at speeds of up to 100 cps.

longer did I have to experience the lengthy process of dictating, waiting, editing, waiting, and editing some more.

Database Management

Database management is the computerized method of storing and using information and is known as "data processing." An easy way to understand the management of a database is to think of it as an electronic filing cabinet. A database is simply a collection of information organized and presented to serve specific purposes. The key to the database is the existence of a method for organizing its contents. Organization of storage and retrieval is what makes the local phone directory a useful rudimentary database rather than an incomprehensible mass of textual garbage. The addresses, names, and phone numbers are stored in relation to an individual's last name. The names are then organized sequentially in alphabetical order for easy retrieval. This organization of material, enabling quick and easy retrieval of its contents, is the bare essence of a database.

Automated legal research services, such as LEXIS⁶, WESTLAW⁷, and JURIS,⁸ are forms of database management most familiar to military attorneys. LEXIS and WESTLAW can be accessed, or retrieved, by the use of a modem and a computer located in the law office. As a matter of economics, software vendors are cooperating with each other in order to provide a product that will work on any type of hardware while using their software programs.¹⁰

⁶LEXIS is the registered trademark of Mead Data Central.

⁷WESTLAW is the registered trademark of West Publishing Co.

⁸JURIS, Justice Retrieval and Inquiry Systems, is a full-text retrieval system developed by the Department of Justice.

⁹A modem (MOdulator/DEModulator) is a device that allows transmission of data through telephone lines. A modem converts computer data or instructions into tones, transmits them, and decodes them on the other end. A modem is required at each end of the line of communication.

¹⁰See *Lexis To Be Available On IBM Terminals*, Attorney's Computer Report, Vol. 1, Number 14, July 1983, at 8.

Database management is available to the SJA office by using today's microcomputers. For example, automated litigation support need not be limited to the corporate giants in the midst of complex antitrust litigation. It can be used at OTJAG or the installation SJA office. Trials can last for months or even years. The documents accumulated may be contained in many file folders and cabinets. During the course of such complex cases, it is not uncommon for a military attorney to be reassigned or leave the service, or for the case to become too complex to be adequately digested manually. A computer's memory is capable of storing information far beyond the capacity of an individual attorney. A database for litigation support can organize documents by various categories such as name, subject-matter, title, or names mentioned in the document. It would be impractical to incorporate the entire document into the database without the use of mainframe computers. Otherwise this would be not only time-consuming but would also exceed the capability of most microcomputer database management systems and the storage capacity of the microcomputer itself. Once these documents have been indexed, information can then be readily added, modified, and searched.

Creation of computerized indices for the storage and retrieval of documents is not limited to litigation support. A database can be created to provide legal support in other areas of the Corps' practice. The administrative law section in an SJA office can index local office opinions and commonly used regulations by various subject categories. Criminal law sections can convert their wall charts detailing the progress of courts-martial to a database which can then serve as the basis for weekly progress reports to the SJA or serve as a "tickler" system to insure that suspense dates are not missed. The criminal law database can even be used by attorneys to research court-martial trends, such as the probability of certain punishments for various offenses or to determine the correlation between the severity of sentences and particular military judges or panels. The scheduling of appointments, establishing docket control, and monitoring personnel absences within the office can all be easily handled with a database man-

agement system. The magistrate court prosecutor can maintain the "bar list" of those individuals no longer allowed access to the military installation. The use of data storage and retrieval is limited only by the imagination of the user.

Telecommunications

This is simply the concept of using telephone lines or other wires or cables to connect one or more computers at distant locations with each other to enable the computers to "talk" to each other. A computer can be connected to the telephone by use of a modem. The information is then transmitted over telephone lines much like voice or sound waves are transmitted. Although the mechanics of this process are unimportant to the user, the results from the capacity to share information are important. Eventually, the field could have direct access to opinions of The Judge Advocate General and other information stored in the computers at the Office of The Judge Advocate General. Commercial databases containing a veritable library of non-legal and legal information can also be directly accessed.

Telecommunications can unify the work of the Corps by allowing distant offices to exchange and share information. For example, if an attorney needs a special Louisiana will, he can not only speak to a military attorney in Louisiana for advice, but could also obtain a copy of the document immediately by telephonic transmission via a modem.

A sub-category of telecommunications is local area networking (LAN) where two or more computers can communicate with each other while in separate rooms or buildings by the use of cables or wires. For example, two or more computers in a large office can be connected by cable so that the information in one is accessible by all. Not only is information shared in a LAN, but printers, disk storage, modems, and the computers themselves are capable of being shared by other sections within the office. Furthermore, the databases maintained by the various sections can be accessed as needed while access to certain stored data may be controlled by encryption devices or codes. Unwarranted intrusion is a sensitive area due to the adversarial nature that is inherent within most SJA of-

fices since trial and defense counsel may be utilizing the same computer system.

Problems

Integration

The computerization of the Corps involves problems as well. The major problem is integration. All computers, software programs, operating systems, printers, modems, or other peripheral devices do not inherently work with each other. Word processing programs do not necessarily work on different computers by the same manufacturer, not to mention working on computers from different manufacturers. Furthermore, special care must be taken so various computers will interface with each other. The problems encountered when interfacing the various devices are almost incomprehensible and often-times require professional assistance. Local offices will have some control in integrating their own office, but some central management will be needed to formulate a common interface for the computer systems located in the field and at OTJAG.

Expertise

The Corps possesses little expertise amongst its nearly 1800 attorneys. The Judge Advocate General's Automation Management Office, established on 20 September 1982, was a first step in that direction, but it will have its hands full computerizing the Corps at OTJAG. Sources of expertise for field offices will include consultants who are either employed by the installation or are provided by the supplier of a computer system. Another source of expertise and information may come from within the office in the form of a clerk or attorney who is a computer hobbyist. Once the system is established, it is likely that an individual or individuals will gravitate toward the computer and develop some proficiency in its operations.

Software

Software is what makes the computer tick. Without it, the computer is only unmolded jelly and is incapable of accomplishing anything. The instructions provided by software enable the computer to process words and data. Due to the Corps' particular needs, there are no pack-

aged software programs beyond word processing that have been designed to specifically meet our needs. Fortunately, many of the general purpose database management programs are flexible enough so that they can be easily stretched to meet specific needs.

Assistance in preparing these programs using packaged software programs may be obtained from programmers within the local automation management office. Expertise can even be developed within the office as many courses of instruction are offered to teach the fundamentals of particular software programs.¹¹ Furthermore, a multitude of self-instructional computer books have been written.¹²

¹¹The United States Department of Agriculture's response for providing computer literacy to its management has been the creation of an Information Tech Center which offers courses of instruction, seminars, and demonstrations on personal computers and various software programs. See *Department of Agriculture: Walking Into a Flexible Management Outlook*, Government Executive, June 1982, at 27.

¹²The following list of self-instruction articles and books is provided for those who have little or no background in computers:

Computers (pts I & II), Consumer Reports, Sept. 1983, at 461-488, Oct. 1983, at 531-551.

R. Byers, *Everyman's Database Primer* (1982).

P. McWilliams, *The Personal Computer Book* (1982).

P. McWilliams, *The Word-Processing Book* (1982).

A. Osborne & D. Bunnell, *An Introduction to Microcomputers* (3d ed. 1982).

Conclusion

This is not actually the conclusion but only the beginning. The computer is no longer an emerging technology but a tool that must be incorporated into the Army's legal arena now. Automation is probably the most important issue, and may be one of the most misunderstood issues, facing those practicing military law during the next decade. The automation of the Corps is a foregone conclusion; the only question remaining is how and when. The approval of the ISP and the creation of the Automation Management Office are only the first steps in formulating a unified policy. Each SJA office has additional uses for a computer that will not be resolved at OTJAG level. A computer offers flexibility and is unlimited in its utility. The only necessary ingredients are imagination and practicality. Analysis of local needs, balancing the time and effort required to set up a system on the computer against its long term utility and avoiding automation just for the sake of automation are the next steps toward achieving effective and useful law office automation.

Professional Responsibility Opinions: Cases 81-4 and 82-5

The Judge Advocate General's Professional Responsibility Advisory Committee

A Summary and Commentary on Opinion 81-4

Upon the advice of a legal assistance officer, an enlisted man's wife retained a civilian attorney to file an action for divorce from her husband. Thereafter, the legal assistance officer, who was unmarried, permitted the woman and her small child to share his quarters. In addition, he advanced her money for the filing fee for the divorce action. There was no evidence regarding a sexual relationship.

On these facts, The Judge Advocate General's Professional Responsibility Advisory Committee expressed the opinion that the legal assistance officer's conduct did not violate DR 5-103(B) (which restricts attorney's financial assistance to client in pending legislation), since he was not actually involved in representing the woman in the ongoing litigation, but his conduct nevertheless adversely reflected on his fitness to practice law within the meaning of DR 1-102(A)(6).

Although the Committee noted that the evidence might not support a finding of unfitness in the case of a private practitioner, the Committee rested its opinion on the unique obligation of a military legal assistance officer to maintain, both in appearance and in fact, the integrity of the Army legal assistance program. This program for delivery of legal services is designed to maintain military effectiveness and, in order to do so, must enjoy complete confidence within a military society consisting of both enlisted and officer personnel and their families. (Cf. Committee Opinion 81-1, reprinted in *The Army Lawyer*, September 1982, at 20 (text accompanying note 8)). The image of a male commissioned officer-lawyer entered into a living arrangement with a female client, who happens to be the wife of a serviceman and ostensibly separated from her husband pursuant to the legal assistance received, undermines confidence in the military legal assistance program.

A Summary and Commentary on Opinion 82-5

A case recently considered by the Professional Responsibility Advisory Committee illustrates some of the problems involved when one member of a military legal office is disqualified from acting upon a particular matter because his or her professional judgment reasonably could be affected by financial, business, property, or other personal interests. See DR 5-101(A) (informed client may consent to representation despite conflict). In the case considered by the committee, there was pending before the command an individual grievance-type procedure involving a member of the lawyer's immediate family. In order to avoid disclosure to the complainant of confidential communications between members of the legal office, as attorneys, and the commander and staff, as clients, the head of the legal office limited handling of the matter to a branch other than the one to which the conflicted lawyer was assigned.

Apparently in violation of instructions from the superior as to the restricted handling of the case, a member of the action branch disclosed to the conflicted lawyer a document included in a circulating reading file. The document contained advice from the office to the commander or a staff member regarding the matter in question. The conflicted lawyer obtained a copy of the document and his family member then used it in connection with the pending complaint.

The narrow question before the committee was whether the conflicted lawyer's disclosure violated DR 4-101(B). The committee concluded that, technically speaking, it did not. DR 4-104(B) protects advice given by an attorney as well as information given to one's attorney. However, the DR is aimed at the client's own attorney, while the supervisor's action in this case clearly was designed to remove the lawyer from the role of attorney in this case.

Arguably, so long as the lawyer remained a member of the law firm (office), even if excluded from the handling of a particular case, he should be subject to the same obligation as the other members of the firm not to disclose the confidential advice given to a client, but the Disciplinary Rules as presently written do not appear to encompass this situation. Nevertheless, whether or not a violation of the letter of DR 4-101(B) occurred, the lawyer's disclosure appears to have violated Army regulations pertaining to the use of public office for private gain and violated prohibitions against engaging in activity involving the use of inside information. Since attorney-client confidences are exempt from disclosure under the Freedom of Information Act, the disclosure without authorization from the proper official also could violate regulations pertaining to the release of information to the public.

Supervising and other attorneys must exercise reasonable care to prevent associates from disclosing the confidences of a client. DR 4-101(D). In cases such as this one, it appears that specific and detailed instructions regarding the conduct of lawyers in the office are in order. These need to be addressed to each lawyer who might handle or learn of the matter involved as well as to the lawyer who is excluded. Also, the precautions used need to guard against the possible inadvertent exposure of confidences through reading files and common files. This case seems to indicate that enforcing direct and detailed office instructions and relevant military regulations are more effective avenues of enforcement than is reliance on broad provisions of the Model Code of Professional Responsibility.

American Bar Association/Young Lawyers Division

Mid-Year Convention

Captain Bruce E. Kasold

ABA/YLD Delegate

32d Graduate Course, TJAGSA

The Assembly of the Young Lawyers Division (YLD) of the American Bar Association (ABA) addressed a large number of issues at their annual meeting held this year in Atlanta, Georgia, from 28-31 July 1983.¹

Several issues having impact on the military attorney were considered.

(1) The Assembly is on record as supporting passage of a full ABA resolution which would support the right of an individual to file an application for correction of his military record directly with the Board for the Correction of Military Records. Current policy requiring con-

sultation with a personnel office prior to filing an application with the Board is apparently considered a deterrent to an applicant seeking corrective action. This resolution also has the support of the ABA Standing Committee on Military Law.

(2) The Assembly voted to support full adoption of the Model Rules of Professional Conduct.

(3) The Assembly held over for further evaluation a proposal that would permit greater *pro bono* representation by the federal attorney.

(4) The Assembly rejected a resolution calling for support of proposed legislation to substitute the United States as defendant when government employees are sued for constitutional torts. The proposed legislation would also eliminate the good faith defense, provide a jury trial, and permit punitive damages.

¹This article is intended to portray the issues considered by the YLD assembly and their support or lack of support therefor. It does not represent my personal viewpoint nor the Department of the Army's position on any given issue.

In other areas the YLD assembly acted as follows.

(1) It adopted a resolution calling for the rejection of a requirement that attorneys be certified as specialists before they can advertise their specialization in any given field of law. This resolution also calls for the development of other guidelines to ensure false or misleading advertising is not permitted or condoned.

(2) It supported a resolution that the ABA voice its opinion that any reduced Federal or State spending for health care not be offset by an increase in payments by the handicapped, the elderly, or the indigent. The resolution also calls for administrative and judicial review of rates paid to providers of health care for Medicare or Medicaid beneficiaries.

(3) It supported a resolution calling for legislation which facilitates interjurisdictional enforcement of matrimonial judgments including maintenance, child support, and custody.

(4) It supported a resolution urging approval of proposed changes to Federal Rules 4, 28, and 44 of the Federal Rules of Civil Procedure. These changes concern service of process and depositions in foreign countries, as well as the certification of official documents. The proposed changes are intended to conform the Federal Rules with the Hague Conventions on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, the Taking of Evidence Abroad in Civil or Commercial Matters, and the Convention on Abolishing the Requirement of Legislation for Foreign Public Documents.

(5) It supported a resolution called for increased activity in the further development and expansion of prepaid legal services.

(6) It supported the increased availability of child-care resources as well as new legislation designed to provide creative mechanisms for extending the availability, affordability, and quality of child-care.

(7) It called for more active involvement by attorneys, judges, and state and local bar associations in the juvenile justice and child welfare system. It is hoped that more participation in

educational programs and close ties with the community will reduce the problems associated with our children and young adults.

(8) It supported a resolution calling for early enactment of legislation modernizing the United States international extradition practices along the lines of Senate Bill 220, The Extradition Act of 1983. The current extradition laws date back to 1882.

(9) It supported adoption by the full ABA of the "Guidelines for Reviewing Qualifications of Candidates for State Judicial Office" which were drafted by the Judicial Administration Division. The guidelines generally follow the whole-man concept and include such criteria as integrity, health, diligence, financial responsibility, and professional education and experience.

(10) It approved, in principle, the concept of a treaty governing peaceful resolution of international conflicts which would require all signatories to utilize several forms of negotiation to resolve international disputes before the use of force could be legitimate.

(11) It supported a resolution calling for the burden to be placed on a convicted defendant to demonstrate entitlement to bail while appealing a conviction.

(12) It defeated a resolution calling for the enforcement of federal immigration laws solely by federal officials. This resolution would severely curtail the assistance of state and local law enforcement personnel in apprehending persons on immigration charges.

(13) It supported the creation of a new ABA conference titled, "National Conference of Lawyers and Representatives of the Media." This conference will involve participation by radio-television broadcasters and news directors, newspaper editors, and interested attorneys, and will focus on law and media issues.

(14) In the tax law arena, it called for adoption by the states of several model laws providing simple, responsive, and cost-effective assessment and administrative collection of taxes. It also supported the adoption of similar laws providing pre-collection administrative protest and

appeal procedures.

(15) It supported a resolution opposing, in principle, the imposition of capital punishment upon any person for any offense committed while under the age of eighteen.

While many of the resolutions considered by the YLD are general in nature and have no

immediate impact, YLD support for a particular resolution can often provide the impetus to fully develop the general proposal. Similarly, non-approval can often mean a significant delay in any further development toward that goal. YLD support on a general policy is often sought for this reason.

Courts-Martial

Quarterly Punishment Rates Per 1000 Average Strength January-March 1983

| | GENERAL CM | SPECIAL CM | | SUMMARY CM |
|-----------------------------------|------------|------------|---------|------------|
| | | BCD | NON-BCD | |
| ARMY-WIDE | .54 | .71 | .28 | 1.00 |
| CONUS Army commands | .40 | .56 | .24 | .80 |
| OVERSEAS Army commands | .78 | .96 | .36 | 1.32 |
| USAREUR and Seventh Army commands | .86 | .98 | .30 | 1.51 |
| Eighth US Army | .46 | 1.02 | .75 | .79 |
| US Army Japan | | .80 | .40 | |
| Units in Hawaii | .33 | .55 | .39 | .27 |
| Units in Alaska | 1.28 | 1.51 | .46 | .93 |
| Units in Panama | .42 | .28 | | 1.40 |

Quarterly Punishment Rates Per 1000 Average Strength April-June 1983

| | GENERAL CM | SPECIAL CM | | SUMMARY CM |
|-----------------------------------|------------|------------|---------|------------|
| | | BCD | NON-BCD | |
| ARMY-WIDE | .54 | .69 | .20 | .90 |
| CONUS Army commands | .43 | .55 | .21 | .69 |
| OVERSEAS Army commands | .72 | .94 | .19 | 1.27 |
| USAREUR and Seventh Army commands | .82 | .89 | .15 | 1.36 |
| Eighth US Army | .57 | 1.61 | .37 | .97 |
| US Army Japan | .39 | .39 | | |
| Units in Hawaii | .27 | .61 | .27 | .84 |
| Units in Alaska | | 1.33 | .48 | .24 |
| Units in Panama | .24 | .35 | | 2.13 |

Nonjudicial Punishment**Quarterly Punishment Rates Per 1000 Average Strength
January-March 1983**

| | |
|--------------------------------------|-------|
| ARMY-WIDE | 42.25 |
| CONUS Army commands | 42.67 |
| OVERSEAS Army commands | 41.54 |
| USAREUR and Seventh Army commands | 40.29 |
| Eighth US Army | 58.22 |
| US Army Japan | 18.49 |
| Units in Hawaii | 34.07 |
| Units in Alaska | 41.00 |
| Units in Panama | 43.14 |

**Quarterly Punishment Rates Per 1000 Average Strength
April-June 1983**

| | |
|--------------------------------------|-------|
| ARMY-WIDE | 42.84 |
| CONUS Army commands | 42.55 |
| OVERSEAS Army commands | 43.34 |
| USAREUR and Seventh Army commands | 41.95 |
| Eighth US Army | 53.56 |
| US Army Japan | 7.18 |
| Units in Hawaii | 10.99 |
| Units in Alaska | 41.82 |
| Units in Panama | 38.98 |

NOTE: Above figures represent geographical areas under the jurisdiction of the commands and are based on average number of personnel on duty within those areas.

Administrative and Civil Law Section

Administrative and Civil Law Division, TJAGSA

The Judge Advocate General's Opinions

(Standards of Conduct) Discussion Concerning Officer's "Plans for the Future" Constituted "Negotiating for Employment" Under Paragraph 2-1n, AR 600-50. DAJA-AL 1983/1253, 18 March 1983.

Accepting an unsolicited dinner invitation to discuss his "plans for the future," an Army officer talked generally with a corporation's representatives about his possible retirement plans and interests. No specific job offer was made at the dinner. At that time, the Army officer's duties include authority over agency contracts with subcontractors of the corporation concerned. The Army officer neither reported the contact to his superior nor disqualified himself from acting on matters involving that particular corporation. Subsequently, he was called upon to consider some matters relating to the corporation's interests.

The Judge Advocate General opined that under these facts the Army officer's official conduct concerning the corporation's interests would be considered a violation of 18 U.S.C. § 208. This criminal statute proscribes taking any official action subsequent to negotiating for employment with a nongovernmental entity which has financial interests that could be affected by the individual's official duties. Also, absent timely disqualification by the Army officer from taking further official action on matters pertaining to the corporation concerned, a violation of paragraph 2-1n, AR 600-50 occurred. Paragraph 2-1n, AR 600-50 states in part, "DA personnel may not participate personally or substantially in any particular matter in which, to their knowledge, an organization with which they are negotiating for employment, or have any arrangement concerning prospective employment, has a financial interest (See 18 U.S.C. § 208)."

The Judge Advocate General suggested that the Army officer concerned would have acted properly if he had reported the matter to his superior and discussed the need to disqualify himself from any official action that could pos-

sibly affect the financial interests of the corporation, under paragraphs 2-1n and 2-11g, AR 600-50. In other words, when the Army officer began to act positively toward a prospective employer, even though the inquiry was in a preliminary stage, he should have perceived that he was in fact negotiating for employment within the meaning of 18 U.S.C. § 208 and AR 600-50.

(Standards of Conduct) Anti-Lobbying Act Prohibitions Clarified. DAJA-AL 1983/1022, 24 January 1983)

The Judge Advocate General issued guidelines (based on a White House legal memorandum) on the use of appropriated funds for providing information to Congress, thus clarifying the proscriptions contained in the Anti-Lobbying Act (18 U.S.C. § 1913).

Prohibited activities include the use of appropriated funds to encourage or to pressure private citizens, citizen groups, corporations, associations, or similar organizations to contact or solicit the Congress in favor of legislative action. A violation occurs when attempts are made to generate grass roots support of an Administration proposal. In this regard, direct or indirect influence may constitute a violation of the Anti-Lobbying Act. A violation could occur directly through a speech or indirectly by a distribution of written materials in an attempt to induce private pressure on Congress. On the other hand, there is no prohibition against an Executive Branch official's providing, in the proper performance of that official's study, information to a member of Congress or soliciting that member's support of an Administrative proposal, whether or not specific legislation is pending.

Responses to inquiries and addresses to groups, associations, or organizations on an Administration initiative are not prohibited, as long as such responses and speeches do not appear to be a publicity campaign. Similarly, Army personnel should be especially circumspect in any contacts with industry or associations. Army personnel should not suggest that such organizations encourage their member-

ship to contact members of Congress, nor should Army personnel provide multiple copies of materials to be distributed by such organizations.

In short, the narrow line between proper and improper public affairs activity is summarized as follows:

These legal provisions are not intended to prohibit an ongoing dialogue or interaction between the Executive Branch and the public in an educational effort to explain Administration positions, but where that conduct develops into a publicity and propaganda campaign designed or intended to pressure citizen groups into contacting Congressional representatives, the boundary of propriety has been crossed.

(Military Installations—Law Enforcement, Motor Vehicles). **Use Of Breathalyzer Tests for Service Members Reviewed.** DAJA-AL 1982/3046, 15 December 1982.

The Military Rules of Evidence currently authorize consensual and nonconsensual breathalyzer tests. However, the broad language of AR 190-5, which places additional restrictions on the use of chemical sobriety tests, applies to breathalyzer tests just as it does to blood tests. Specifically, para. 4-5c, AR 190-5 provides that the individual must be subject to the UCMJ; the service member must have been driving a vehicle involved in an accident resulting in death, personal injury, or property damage; probable cause must exist to believe the individual was under the influence of an intoxicant; and a search authorization must be properly obtained unless there is a clear indication that an intoxicant will be found and there is good reason to believe delay in obtaining authorization will

result in destruction of the evidence. Consequently, traffic-related breathalyzer tests must meet the requirements of the regulation. Tests arising from nontraffic related incidents need not comply with the regulation.

(Military Installations—Legislative Jurisdiction) **Hawaii Animal Quarantine Law Subject To Federal Preemption.** DAJA-AL 1983/1782, 17 May 1983.

Hawaii requires that dogs and other carnivorous animals entering the state be quarantined for 120 days. Approximately five military working dogs are imported into the state annually. Western Command (WESTCOM) requested, but was denied, an exemption from this state requirement. The Judge Advocate General advised that a request for exemption should not have been made because it implied that the state could exercise authority over the Federal Government. The doctrine of federal supremacy [see U.S. Const. art. VI, cl. 2; *United States v. Tax Commission of Mississippi*, rev'd, 412 U.S. 363 (1973), 421 U.S. 599 (1975); *United States v. Texas*, 695 F.2d 136 (5th Cir. 1983); *United States v. Town of Windsor*, 496 F. Supp. 581 (D. Conn. 1980)] bars state interference with federal activities such as those pertaining to military working dogs mandated by AR 190-12. Nevertheless, given the state's legitimate and significant interest in preventing the introduction of rabies into the state, The Judge Advocate General recommended that WESTCOM voluntarily agree to quarantine the dogs on military installations and to use them during the quarantine period in such a way as to preclude contact with other animals, not as a request for exemption to Hawaii's laws, but as an offer to exercise the federal government's absolute right in the matter in a manner which protects Hawaii's interests.

Legal Assistance Items

Legal Assistance Branch, Administrative and Civil Law Division, TJAGSA

The 1983 revised editions of the *All States Will Guide* and the *All States Consumer Law Guide* have been distributed. Previous editions of these volumes are no longer current and should be destroyed. As in the past, one copy,

and one copy only, of each volume was sent to each legal assistance office. Individuals desiring additional copies of the *Guides* may obtain them from the Defense Technical Information Center.

Reserve Affairs Items

Reserve Affairs Department, TJAGSA

JAGC Reservists Assist Hurricane Victims

Members of the 1st Military Law Center (MLC), located in San Antonio, Texas, reacted quickly in the wake of Hurricane Alicia to provide emergency legal assistance to the hurricane's victims. Alicia hit the Texas gulf coast on August 18, 1983, causing 22 deaths and property damage estimated at more than 1.4 billion dollars. Numerous active, reserve, and retired military personnel and their families in the Houston/Galveston region suffered losses in the disaster.

Acting with the approval and guidance of the 90th U.S. Army Reserve Command and Fifth U.S. Army, Colonel Charles J. Sebesta, the MLC commander, organized Judge Advocate General Detachments in Houston and San Antonio to respond to the emergency. An assistance center was established at the MLC headquarters in San Antonio. Word was circulated to the Veterans Administration, nearby military installations, the Coast Guard, and the Texas National Guard that legal services were available. A second center was later established in Galveston, the area hardest hit by the hurricane.

These centers operated eight hours each day from August 23 until August 31. Despite personal losses, law center personnel provided legal assistance to more than 40 individuals during this period. They aided numerous other service members and dependents who phoned the centers for help. Twenty-three officers and enlisted personnel from the 14th, 15th and 144th Judge Advocate General Detachments and the 1st MLC participated in the operation.

This timely response by Reserve Component judge advocates demonstrates once again their key role in the total force concept. While effectively serving their community during a major disaster, the participants learned lessons in contingency planning which will prove invaluable in the event of mobilization.

Change to On-Site Training Schedule

The location of the Reserve Component Tech-

nical (On-Site) Training scheduled for 10-11 March 1984 has been changed from Orlando, FL to Atlanta, GA and will be hosted by the Georgia Army National Guard. The following additional information is provided:

City, Host Unit, and Training Site: Atlanta, GA
GA ARNG
Atlanta Perimeter Marriott
246 Perimeter Center Parkway,
NE
Atlanta, GA 30346
(404) 394-6500

Subjects: Criminal Law
Admin & Civil Law

Instructors/Reserve Affairs Rep: LTC William P. Greene
LTC John C. Cruden
COL Harry C. Beans

Action Officer's Address & Phone Number: MAJ William J. Doll
1400 Bank of the South Building
55 Marietta Street
Atlanta, GA 30303
(404) 659-4488

USAR/ARNG Court Reporter Training

The Army has teamed up with the Navy to provide training for Reserve Component court reporters. The Naval Justice School in Newport, Rhode Island, offers a two-week Closed Microphone Court Reporting Course for the benefit of the U.S. Army Reserve Components. This course was developed to train court reporters who are unable to attend the full six-week course required for MOS 71E Certification. Such certification is now awarded to successful graduates of the two-week course that will be held annually the last two weeks of June.

These dates, the result of successful trial runs in 1982 and 1983, will become a permanent part of the academic calendar at the Naval Justice School. They coincide with the dates set aside for triennial JAGSO team training at TJAGSA.

Sergeant First Class R. C. Rogers, Army Representative at the Naval Justice School, serves as senior instructor and liaison officer. Reserve Component personnel handle all other administrative tasks and provide the remainder of the instruction. The Naval Justice School

provides classrooms, billets and dining facilities.

The curriculum is a highly condensed version of the six-week course. Classroom hours have been increased, and intensive individual study is required. The two-week course includes five of the nine graded exams from the six-week version. Emphasis is on fundamentals. Students are taught only basic court reporting skills—ultimate success and expertise depend upon how well students apply and develop these skills.

Because the course is an abbreviated one there is no time to teach background material. Students must therefore meet all prerequisites for enrollment. The prerequisites are the same as those for the six-week course, and may be found in DA Pam 351-4. They include a minimum typing speed of 40 words-per-minute and the ability to speak, understand and write standard English.

Students must attain a speed of 160 words-per-minute for MOS certification (the standard is 200 words-per-minute in the six-week course). Reaching this goal in two weeks requires ability and dedication. Experience has shown that students lacking the requisite typing and verbal

skills are much less likely to achieve course standards. Therefore, all applicants will be closely screened to ensure that only qualified soldiers receive this valuable training.

Course quotas are prepared and distributed annually by First Army, which sponsors the training. Attendees are selected by the Sergeants Major in the SJA offices in the Continental United States Armies for the Army Reserve and by State Adjutants General for the Army National Guard.

The two-week court reporters' course provides essential training for the Reserve Components. Units and individuals alike should take maximum advantage of this worthwhile opportunity. However, applicants must be skilled and willing to work long hours. Those successful candidates will be rewarded with MOS certification and the satisfaction of having developed a skill that will enable them to occupy a most critical role in the administration of military justice within their units. Interested persons should contact Sergeant Major Underwood at the First U.S. Army SJA Office, (301) 677-4016, Autocon 923-4016.

Enlisted Update

Sergeant Major Walt Cybart



Promotion Stagnation

During the recent 71D/71E ANCOC graduation at Fort Benjamin Harrison, IN, I had the opportunity to speak to the class and try to obtain a better understanding of the major concerns of our NCOs. The primary concerns are the promotion slowdown to grades E-6 and E-7 and the perception that "we" are doing nothing to correct the problem.

I would like to assure everyone that SFC Tay Sture, OTJAG liaison to MILPERCEN, and I spend most of our duty hours working with MILPERCEN trying to devise ways to correct this problem. There are several actions being reviewed, including a grade redistribution

scheme, which will correct this situation over the long term. Unfortunately, no methods are known to me which will accomplish this action immediately.

Conversion to Letter Size (8½" x 11") Paper

The conversion to letter size paper is a reality. The current change to AR 27-10 was published with all forms on letter size paper. Plans call for the eventual use of this size paper for all criminal law forms, including records of trial. The next change to the Manual for Courts-Martial will include a revised charge sheet and other forms on 8½" x 11" paper. Installations should begin converting to this "new" size paper as current supplies dictate.

CLE News

1. Manual for Courts-Martial Training

Following is the schedule of dates and locations for instruction on the Manual for Courts-Martial, 1984.

| | |
|------------------|---|
| 31 January 1984 | Fort McClellan, AL |
| 2 February 1984 | Fort Gordon, GA |
| 8 February 1984 | Naples, Italy |
| 10 February 1984 | USAREUR (3 sites) |
| 13 February 1984 | " |
| 15 February 1984 | " |
| 22 February 1984 | Fort Bragg, NC |
| 23 February 1984 | Camp LeJeune, NC |
| 27 February - | West Pac |
| 15 March 1984 | |
| 1 March 1984 | Korea |
| 3 March 1984 | Japan (Yokosuka) |
| 6 March 1984 | Okinawa |
| 8 March 1984 | Subic Bay, Philippines |
| 10 March 1984 | Guam |
| 12 March 1984 | Pearl Harbor, HI |
| 20 March 1984 | Parris Island, SC |
| 22 March 1984 | Jacksonville Naval Air Sta. FL |
| 27 March 1984 | Fort Belvoir, VA |
| 3 April 1984 | Pensacola Naval Sta. FL |
| 5 April 1984 | Fort Benning, GA |
| 10 April 1984 | Fort Sill, OK |
| 12 April 1984 | Fort Hood, TX |
| 13 April 1984 | Fort Sam Houston, TX |
| 24 April 1984 | Naval Base, Philadelphia, PA |
| 26 April 1984 | Naval Justice School, Newport, RI |
| 1 May 1984 | Fort Leonard Wood, MO |
| 3 May 1984 | Fort Leavenworth, KA |
| 4 May 1984 | Great Lakes Naval Base, IL |
| 8 May 1984 | TJAGSA |
| 15 May 1984 | Fort Carson, CO |
| 17 May 1984 | Fort Bliss, TX |
| 18 May 1984 | Amphibious Base, San Diego, CA |
| 21 May 1984 | Camp Pendleton, CA |
| 23 May 1984 | Treasure Island Naval Sta. San Francisco, CA |
| 25 May 1984 | Naval Base, Seattle, WA |
| 30 May 1984 | Naval Base, Norfolk, VA |
| 31 May - | Pentagon (split session) |
| 1 June 1984 | |
| 5 June | Fort Knox, KY |
| 7 June | Fort Campbell, KY |

2. The 1984 Government Contract Law Symposium

Following are the tentative topics and speakers for the 1984 Government Contract Law Symposium which will be held 9-13 January 1984.

"The Legislative Outlook from DOD," The Honorable Mary Ann Gilleece, Deputy Under Secretary of Defense for Acquisition Management, DOD.

"Equal Opportunity in Government Contracts," Mr. John C. Fox, Executive Assistant, OFCCP, Department of Labor.

"State Taxation of Government Contractors," Colonel Ronald Cundick, Chief, Contract Law Division, OTJAG, Department of the Army.

"Commercial Activities Program—An Update," Mr. Sam Hopper, Office of the Assistant Secretary of the Army for Research, Development, and Acquisition.

"Personal Liability of Government Contract Officials," John S. Miller, III, Assistant General Counsel, GSA.

"A Government View of Recent Board of Contract Appeals Decisions," Colonel William Rudland, USAF, Chief Trial Attorney, Department of the Air Force, Wright-Patterson Air Force Base.

"A Private Bar View of Recent Board of Contract Appeals Decisions," Eldon Crowell, Esquire, Crowell and Moring, Washington, D. C.

"Impact of the Federal Court Improvement Act," Professor Ralph Nash, George Washington University National Law Center, Washington, D. C.

"The U.S. Claims Court's First Year," Judge H. Robert Mayer, U.S. Claims Court, Washington, D. C.

"Improvements in Program Management," Mr. Burton Blair, Command Counsel, DARCOM, Alexandria, Virginia.

"Suspension and Debarment," Brigadier General Richard Bednar, Assistant Judge Advocate General for Civil Law, OTJAG, Department of the Army.

Other tentative topics which will be presented include "Contract Law Developments—The Year in Review", "FAR—Implementation is Beginning", "Effective Program Management", "Bid Protests: Current Issues and Development", "A Construction Law Update", and "The DOD Inspector General's First Year." In addition, seminars will be conducted during the Symposium on "Bond Requirements in Government Contracts", "Procurement of Expert and Consulting Services", and "Detection Of and Action To Combat Government Contract Fraud."

3. Resident Course Quotas

Attendance at resident CLE courses conducted at The Judge Advocate General's School is restricted to those who have been allocated quotas. Quota allocations are obtained from local training offices which receive them from the MACOM's. Reservists obtain quotas through their unit or ARPERCEN, ATTN: DARP-OPS-JA, if they are non-unit reservists. Army National Guard personnel request quotas through their units. The Judge Advocate General's School deals directly with MACOM and other major agency training offices. Specific questions as to the operation of the quota system may be addressed to Mrs. Kathryn R. Head, Nonresident Instruction Branch, The Judge Advocate General's School, Army, Charlottesville, Virginia 22901 (Telephone: AUTOVON 274-7110, extension 293-6286; commercial phone: (804) 293-6286; FTS: 938-1304).

4. TJAGSA CLE Course Schedule

January 9-13: 1984 Government Contract Law Symposium (5F-F11).

January 16-20: 73d Senior Officer Legal Orientation (5F-F1).

January 23-27: 24th Federal Labor Relations (5F-F22).

January 23-March 30: 103d Basic Course (5-27-C20).

February 6-10: 11th Criminal Trial Advocacy (5F-F32).

February 27-March 9: 98th Contract Attorneys (5F-F10).

March 5-9: 25th Law of War Workshop (5F-F42).

March 12-14: 2nd Advanced Law of War Seminar (5F-F45).

March 12-16: 14th Legal Assistance Course (5F-F16).

March 26-30: 7th Administrative Law for Military Installations (5F-F24).

April 2-6: 2nd Advanced Federal Litigation (5F-F29).

April 4-6: JAG USAR Workshop

April 9-13: 74th Senior Officer Legal Orientation (5F-F1).

April 16-20: 6th Military Lawyer's Assistant (512-71D/20/30).

April 16-20: 3d Contract Claims, Litigation, and Remedies (5F-F13).

April 23-27: 14th Staff Judge Advocate (5F-F52).

April 30-May 4: 1st Judge Advocate Operations Overseas (5F-F46).

April 30-May 4: 18th Fiscal Law (5F-F12).

May 7-11: 25th Federal Labor Relations (5F-F22).

May 7-18: 99th Contract Attorneys (5F-F10).

May 21-June 8: 27th Military Judge (5F-F33).

May 22-25: Chief Legal Clerks/Court Reporter Refresher Training

June 4-8: 75th Senior Officer Legal Orientation (5F-F1).

June 11-15: Claims Training Seminar.

June 18-29: JAGSO Team Training

June 18-29: JOAC: Phase IV.

July 9-13: 13th Law Office Management (7A-713A).

July 16-20: 26th Law of War Workshop (5F-F42).

July 16-27: 100th Contract Attorneys (5F-F10).

July 16-18: Professional Recruiting Training Seminar.

July 23-27: 12th Criminal Trial Advocacy (5F-F32).

July 23-September 28: 104th Basic Course (5-27-C20).

August 1-May 17 1985: 33d Graduate Course (5-27-C22).

August 20-24: 8th Criminal Law New Developments (5F-F35).

August 27-31: 76th Senior Officer Legal Orientation (5F-F1).

September 10-14: 27th Law of War Workshop (5F-F42).

October 9-12: 1984 Worldwide JAG Conference

October 15-December 14: 105th Basic Course (5-27-C20).

5. Civilian Sponsored CLE Courses

March

1-2: ALIABA, Tax Shelters under Attack, Beverly Hills, CA.

1-3: UMLC, Medical Institute for Attorneys, Miami Beach, FL.

2: ABICLE, Negotiation & Alternative Dispute Resolution, Tuscaloosa, AL.

2-3: PLI, The SEC Speaks, Washington, DC.

2-3: ABICLE, Trial Evidence, Atlanta, GA.

3-4: PLI, Negotiating Settlements in Personal Injury Cases, San Francisco, CA.

8-9: PLI, Hazardous Waste Litigation, Chicago, IL.

9: ABICLE, Industrial Development Bonds, Atlanta, GA.

9: ABICLE, Real Estate Issues for the General Practitioner, Atlanta, GA.

10-11: PLI, Advanced Medical Malpractice, San Francisco, CA.

10-16: NITA, Trial Advocacy, Philadelphia, PA.

11-14: NCJJ, National Conference on Juvenile Justice, Las Vegas, NV.

16: ULSL, Criminal Law, Louisville, KY.

16-17: SBM, Malpractice, Butte, MT.

17-23: PLI, Patent Bar Review Course, New York, NY.

17-24: ABICLE, Georgia Institute of Trial Advocacy, Athens, GA.

23-24: ATLA, Criminal Trial Techniques, Atlantic City, NJ.

23-24: ABICLE, Georgia Law School, Atlanta, GA.

23-24: KCLE, Legal Issues for Bank Counsel, Lexington, KY.

25-29: NITA, Trial Advocacy, Berkeley, CA.

28: ABICLE, Banking Law, Birmingham, AL.

30: ABICLE, Workers' Compensation for the General Practitioner, Columbus, GA.

Current Material of Interest

1. TJAGSA Materials Available Through Defense Technical Information Center

Each year TJAGSA publishes deskbooks and materials to support resident instruction. Much of this material is useful to judge advocates and

government civilian attorneys who are not able to attend courses in their practice areas. This need is satisfied in many cases by local reproduction of returning students' materials or by requests to the MACOM SJAs who receive

"camera ready" copies for the purpose or reproduction. However, the School still receives many requests each year for these materials. Because such distribution is not within the School's mission, TJAGSA does not have the resources to provide these publications.

In order to provide another avenue of availability, some of this material is being made available through the Defense Technical Information Center (DTIC). There are two ways an office may obtain this material. The first is to get it through a user library on the installation. Most technical and school libraries are DTIC "users." If they are "school" libraries, they may be free users. Other government agency users pay three dollars per hard copy and ninety-five cents per fiche copy. The second way is for the office or organization to become a government user. The necessary information and forms to become registered as a user may be requested from: Defense Technical Information Center, Cameron Station, Alexandria, VA 22314.

Once registered, an office or other organization may open a deposit account with the National Technical Information Center to facilitate ordering materials. Information concerning this procedure will be provided when a request for user status is submitted.

Biweekly and cumulative indices are provided users. Commencing in 1983, however, these indices have been classified as a single confidential document and mailed only to those DTIC users whose organizations have a facility clearance. This will not affect the ability of

organizations to become DTIC users, nor will it affect the ordering of TJAGSA publications through DTIC. All TJAGSA publications are unclassified and the relevant ordering information, such as DTIC numbers and titles, will be published in *The Army Lawyer*.

The following publications are in DTIC: (The nine character identifiers beginning with the letters AD are numbers assigned by DTIC and must be used when ordering publications.)

| AD NUMBER | TITLE |
|------------|--|
| AD BO77550 | Criminal Law, Procedure, Pre-trial Process/JAGS-ADC-83-7 |
| AD BO77551 | Criminal Law, Procedure, Trial/JAGS-ADC-83-8 |
| AD BO77552 | Criminal Law, Procedure, Post-trial/JAGS-ADC-83-9 |
| AD BO77553 | Criminal Law, Crimes & Defenses/JAGS-ADC-83-10 |
| AD BO77554 | Criminal Law, Evidence/JAGS-ADC-83-11 |
| AD BO77555 | Criminal Law, Constitutional Evidence/JAGS-ADC-83-12 |
| AD BO64933 | Contract Law, Contract Law Deskbook/JAGS-ADK-82-1 |
| AD BO64947 | Contract Law, Fiscal Law Deskbook/JAGS-ADK-82-2 |
| AD BO77738 | All States Consumer Law Guide/JAGS-ADA-83-1 |
| AD BO77739 | All States Will Guide/JAGS-ADA-83-2 |

Those ordering publications are reminded that they are for government use only.

2. Regulations and Pamphlets

| Number | Title | Change | Date |
|-----------------|---|--------|-----------|
| AR 310-2 | Identification and Distribution of DA Publications and Issue of Agency and Command Administrative Publications. | Chg 5 | 1 Dec 83 |
| AR 608-61 | Application for Authorization to Marry Outside the U.S. | Basic | 15 Sep 83 |
| AR 635-100 | Personnel Separations—Officer Personnel | I05 | 1 Oct 83 |
| DA Pam 190-52-1 | Personnel Security Preparations Against Acts of Terrorism. | Basic | Jun 83 |

3. Articles

- Burch, *Developing Standards for Child Support Payments: A Critique of Current Practice*, 16 U.C. Davis L. Rev. 49 (1982).
- Donaldson, *Constitutional Torts and Military Effectiveness: A Proposed Alternative to the Feres Doctrine*, 23 A.F.L. Rev. 171 (1982-1983).
- Elliott, *The Young Person's Guide to Similar Fact Evidence II*, Crim. L. Rev., June 1983, at 349.
- Goldsmith, *The Supreme Court and Title III: Rewriting the Law of Electronic Surveillance*, 74 J. Crim. L. & Criminology 1 (1983).
- Goldzband, *The Basic Sciences of Forensic Psychiatry: A Preface*, 11 Bull. Am. Acad. Psychiatry & L. 101 (1983).
- Green, *Is There an International Criminal Law?* 21 Alberta L. Rev. 251 (1983).
- Greenawalt, *A Due Process Analysis of Judicially-Authorized Presumptions in Federal Aggravated Bank Robbery Cases*, 74 J. Crim. L. & Criminology 343 (1983).
- Hoffman, *Computers—Spring 1983 Survey Update*, L. Off. Econ. Mgmt., Spring 1983, at 47.
- Hopkins, *Bidding Federal Contracts*, 23 A.F.L. Rev. 73 (1982-1983).
- Howe, *Adoption Practice, Issues, and Laws 1958-1983*, 27 Fam. L. Q. 173 (1983).
- Imwinkelried, *The Standard for Admitting Scientific Evidence: A Critique From the Perspective of Juror Psychology*, 28 Vill. L. Rev. 554 (1983).
- Katz, *United States v. Ross: Evolving Standards for Warrantless Searches*, 74 J. Crim. L. & Criminology 172 (1983).
- King, *Social Security Benefits for Disability Related to Alcohol Consumption*, 50 Tenn. L. Rev. 425 (1983).
- Levary & Duke, *Some Aspects of Potential Disclosure of Confidential Computerized Legal Materials*, Computer/L.J., Summer 1983, at 159.
- Llewellyn, *Estate Planning for the Married Couple*, 28 Vill. L. Rev. 491 (1983).
- Marcus, *Causation in Psychiatry: Realities and Speculations*, Med. Trial Tech. Q., Spring 1983, at 424.
- Quarm & Schwartz, *Legal Reform and the Criminal Court: The Case of Domestic Violence*, 10 N. Ky. L. Rev. 199 (1983).
- Sepejak, Menzies, Webster & Jensen, *Clinical Predictions of Dangerousness: Two-Year Follow-Up of 408 Pre-Trial Forensic Cases*, 11 Bull. Am. Acad. Psychiatry & L. 171 (1983).
- Soma & Wehnfoer, *A Legal and Technical Assessment of the Effect of Computers on Privacy*, 60 Den. L.J. 449 (1983).
- Tighe, *Francis Wharton and the Nineteenth Century Insanity Defense: The Origins of a Reform Tradition*, 27 Am. J. Legal Hist. 223 (1983).
- Wohlars, *An Endangered Species: The Federal Employee Strike*, 19 Idaho L. Rev. 7 (1983).
- Comment, *A Coherent Approach to Ineffective Assistance of Counsel Claims*, 71 Calif. L. Rev. 1516 (1983).
- Comment, *Civilian Speech on Military Bases: Judicial Deference to Military Authority, Persons for Free Speech at SAC v. United States Air Force*, 71 Geo. L.J. 1253 (1983).
- Comment, *Survey of the Law of Preemptory Challenges: Uncertainty in the Criminal Law*, 44 U. Pitt. L. Rev. 673 (1983).
- Developments, *Immigration Policy and the Rights of Aliens*, 96 Harv. L. Rev. 1286 (1983).
- Note, *Curbing the Drunk Driver Under the Fourth Amendment: The Constitutionality of Roadblock Seizures*, 71 Geo. L.J. 1457 (1983).
- Note, *The Education for All Handicapped Children Act of 1975 Requires Beneficial, Not Equal, Educational Opportunity: Board of Education v. Rowley*, 102 S.Ct. 3034 (1982), 3 Tex. Tech. L. Rev. 631 (1983).
- Note, *Worker's Compensation—Marital Property—Johnson v. Johnson*, 10 N. Ky. L. Rev. 531 (1983).
- Lawyers Must Look for Danger Signals When Counselling Aliens and Immigrants*, Prevent. L. Rep., July 1983, at 1.
- U.S. Immigration Policy*, 45 Law & Contemp. Probs., Spring 1982.

The Army Lawyer Cumulative Index

This edition contains a subject, title, and author index of all articles appearing in The Army Lawyer from January 1983 through December 1983. The Judge Advocate General's Opinions (digests); Policy Letters and Messages from The Judge Advocate General; Article 69, UCMJ Applications (digests); and Legal Assistance Items published in the January 1983 through December 1983 issues are included as separate indexes. References to The Army Lawyer are by month, year, and page.

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Government Contract Bid Protests: The Jurisdiction of the Federal District Courts, *by CPT Craig P. Niederpruem*, Jun. 1983, at 30.

New OMB Circular No. A-76 (Revised): "Performance of Commercial Activities" is Published, *by Contract Law Division, TJAGSA*, Oct. 1983, at 37.

Pleading and Proof of Foreign Law Before the Armed Services Board of Contract Appeals, *by 1LT Richard J. Russin*, May 1983, at 28.

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By Order of the Secretary of the Army:

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